



**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

2-D November 1, 2022

A handwritten signature in black ink, appearing to read "Celia Zavala", is written over a light blue circular stamp.

CELIA ZAVALA  
EXECUTIVE OFFICER

November 01, 2022

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

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

Dear Supervisors and Commissioners:

**ADOPT RESOLUTIONS TO ISSUE MULTIFAMILY HOUSING REVENUE BONDS TO FINANCE  
THE DEVELOPMENT OF HOUSING FOR HOMELESS VETERANS ON THE WEST LOS  
ANGELES VETERANS AFFAIRS CAMPUS  
(DISTRICT 3) (3 VOTE)**

**SUBJECT**

This letter requests that your Board approve resolutions authorizing and actions facilitating the issuance, sale, and delivery of tax-exempt Multifamily Housing Mortgage Revenue Bonds or Notes to finance the site acquisition, construction, rehabilitation, or development of West LA VA Building 402 Apartments, a 120 unit prefabricated modular housing development for homeless veterans on the West Los Angeles Veterans Affairs Campus located in unincorporated West Los Angeles.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Find that adoption of the Resolutions is not subject to the provisions of the California Environmental Quality Act (CEQA) because the actions will not have the potential of causing a significant effect on the environment.
2. Adopt and instruct the Chair to sign the attached Resolution approving the issuance of tax-exempt Multifamily Housing Mortgage Revenue Bonds or Notes by the Los Angeles County Development

Authority (LACDA), in an aggregate principal amount not exceeding \$33,755,000 to assist VA Building 402 LP (Borrower), or an LACDA-approved designee, to finance the site acquisition, construction, rehabilitation, or development of West LA VA Building 402 Apartments, a 120-unit prefabricated modular housing for homeless veterans on the West Los Angeles Veterans Affairs Campus located at 11301 Wilshire Boulevard in unincorporated West Los Angeles (Project).

IT IS RECOMMENDED THAT THE BOARD OF COMMISSIONERS OF THE LOS ANGELES COUNTY DEVELOPMENT AUTHORITY:

1. Find that adoption of the Resolutions is not subject to the provisions of CEQA because the actions will not have the potential of causing a significant effect on the environment.
2. Adopt and instruct the Chair to sign the attached Resolution authorizing the issuance, sale and delivery of tax-exempt Multifamily Housing Revenue Bonds or Notes (Bonds) in an aggregate principal amount not to exceed \$33,755,000 to finance the site acquisition, construction, rehabilitation, or development of the Project.
3. Authorize the Executive Director or his 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 Bonds in an aggregate principal amount not to exceed \$33,755,000 to finance the acquisition, construction, rehabilitation, or development of the Project. The developer for the Project is Thomas Safran & Associates Development, Inc. and the Borrower is a limited partnership which includes the developer as a partner.

The Project will be located at 11301 Wilshire Boulevard, on the West Los Angeles Veterans Affairs Campus in unincorporated West Los Angeles. The project will be comprised of 11 buildings containing 120 units of modular housing for special needs populations. The 120 units will consist of 107 studio units and 13 two-bedroom units. Fifty-four studio units and five two-bedroom units will be restricted to households with incomes that do not exceed 30% of the Area Median Income (AMI). Fifty-three studio units and six two-bedroom units will be restricted to households with incomes that do not exceed 50% AMI. Two two-bedroom units will be reserved for onsite property management.

The Project site is in a mixed-use neighborhood, within the West Los Angeles Veterans Affairs Campus. The Project will utilize state-of-the-art design and high-quality construction standards to serve residents with high-quality affordable housing with modern amenities and on-site supportive services. Each unit will be furnished with bathrooms and kitchens. Residents will benefit from the substantial outdoor open space, which is activated by a variety of community spaces, giving them a sense of community. The community spaces will include a lobby, restrooms, on-site manager leasing office, a community room with a full kitchen, computer lounge, TV viewing lounge, fitness and exercise center, central laundry, six supportive service offices, and an outdoor central plaza equipped with a theater and picnic areas. The project will include two parking lots containing 55 surface parking spaces, which includes four accessible parking spaces.

#### **FISCAL IMPACT/FINANCING**

There is no impact on the County General Fund. The Bonds will be repaid solely through rent revenues collected by the Borrower. The Borrower will pay all fees and related costs.

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

On August 10, 2021, the Board of Commissioners adopted an inducement resolution declaring the intent of the LACDA to undertake the financing of a Multifamily Housing Mortgage Revenue Bond project in accordance with U.S. Treasury Department regulations. This action established a base date after which costs incurred by the Borrower for the Project could be included in the acquisition and permanent financing obtained pursuant to the issuance of tax-exempt Bonds.

The LACDA is authorized to issue multifamily revenue bonds or notes to assist in financing for nonprofit public benefit organizations or for-profit corporations with a public benefit project, including the Borrower. In order for the LACDA to issue such Bonds, the LACDA and the County must execute the following actions: (1) The LACDA must conduct a public hearing to satisfy the public approval requirement of Section 147(f) of the Internal Revenue Code; and (2) the County must approve a resolution approving the plan of financing and authorizing the LACDA to issue the Bonds. Although the LACDA will be issuing the Bonds at the request of the Borrower, the financing cannot proceed without the approval of the applicable elected legislative body.

On October 11, 2022, the LACDA conducted a telephonic hearing regarding the issuance of the tax-exempt Bonds to finance the Project at its office located at 700 West Main Street in Alhambra. No comments were received at the hearing concerning the issuance of the tax-exempt Bonds or the nature and location of the Project.

The attached Resolutions were prepared by Kutak Rock, LACDA Bond Counsel, and approved as to form by County Counsel.

Pursuant to California Government Code Section 5852.1, a required public disclosure document for this Bond issuance is also attached. All other related documents, in substantially final form, are on file with the Executive Office. They will be approved as to form by County Counsel prior to execution by the authorized parties.

### **ENVIRONMENTAL DOCUMENTATION**

The proposed actions are not a project pursuant to CEQA because they are activities that are excluded from the definition of a project by Section 15378 (b) of the State CEQA guidelines. The proposed actions are administrative activities of government which will not result in direct or indirect physical change to the environment.

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

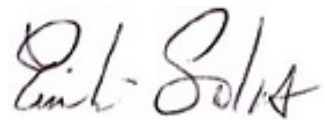
The proposed action is a necessary step to provide Bond financing for the Project, which will increase the supply of housing for homeless veterans.

The Honorable Board of Supervisors

11/1/2022

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emilio Salas". The signature is written in a cursive style with a large initial "E" and "S".

Emilio Salas

Executive Director

ES:LK:ML:VB

Enclosures

## PUBLIC DISCLOSURES RELATING TO CONDUIT REVENUE OBLIGATIONS

Pursuant to California Government Code Section 5852.1, the borrower (the "Borrower") identified below has provided the following required information to the Los Angeles County Development Authority (the "LACDA") prior to the LACDA's regular meeting (the "Meeting") of its Board of Commissioners (the "Board of Commissioners"), at which Meeting the Board will consider the authorization of conduit multifamily housing mortgage revenue bond (the "Bond") as identified below.

1. Name of Borrower: VA Building 402 LP
2. Board of Commissioners Meeting Date: November 1, 2022
3. Name of Conduit Revenue Obligations: Los Angeles County Development Authority Multifamily Housing Revenue Bond (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F
4.  Private Placement Lender or Bond Purchaser,  Underwriter or  Financial Advisor (mark one) engaged by the Borrower presented the Borrower with the following required good faith estimates relating to the Bond, and such good faith estimates have been presented to the governing board or official(s) of the Borrower with authority to obligate the Borrower in connection with the financing:
  - (A) The true interest cost of the Bond, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of Bond (to the nearest ten-thousandth of one percent): 3.10%.
  - (B) The finance charge of the Bond, which means the sum of all fees and charges paid to third parties: \$252,575.
  - (C) The amount of proceeds received by the LACDA for sale of the Bond less the finance charge of the Bond described in subparagraph (B) and any reserves or capitalized interest paid or funded with proceeds of the Bond: \$33,502,425.
  - (D) The total payment amount, which means the sum total of all payments the Borrower will make to pay debt service on the Bond plus the finance charge of the Bond described in subparagraph (B) not paid with the proceeds of the Bond (which total payment amount shall be calculated to the final maturity of the Bond): \$37,059,590.

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

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF  
LOS ANGELES APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING  
REVENUE BONDS AND RELATED ACTIONS IN THE COUNTY OF LOS ANGELES

WHEREAS, the Los Angeles County Development Authority (the “LACDA”), has indicated its intent to adopt a plan of financing to sell and issue multifamily housing revenue bonds or notes in one or more series issued from time to time, and at no time to exceed \$33,755,000 in outstanding aggregate principal amount (the “Bonds”), in order to assist in financing (including reimbursement of Borrower’s expenditures) the acquisition, construction, development or rehabilitation of a multifamily rental housing development consisting of 120 units located at 11301 Wilshire Boulevard, in unincorporated Los Angeles County (the “Project”), to be owned by VA Building 402 LP, a California limited partnership formed by Thomas Safran & Associates Development Inc. (or an affiliate, assign or designee approved by LACDA) and such intent was adopted by a resolution of the LACDA Board of Commissioners on August 10, 2021; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the “Code”), the Bonds are required to be approved prior to their issuance by the applicable elected representative of the governmental unit on whose behalf the bonds are expected to be issued and by each governmental unit having jurisdiction over the area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the interest on the Bonds may qualify for exclusion from gross income under Section 103 of the Code, only if the Bonds are approved in accordance with Section 147(f) of the Code; and

WHEREAS, the Project is located wholly within the unincorporated County of Los Angeles, California; and

WHEREAS, this Board of Supervisors (the “Board”) is the elected legislative body of the County and is the applicable elected representative of the LACDA within the meaning of Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the LACDA has, following notice duly given, held a public hearing regarding the plan of financing and the issuance of such Bonds on October 11, 2022, and now desires that the Board approve the issuance of such Bonds within the County of Los Angeles; and

WHEREAS, this Board hereby finds and declares that this Resolution is being adopted pursuant to the powers granted by law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The above recitals, and each of them, are true and correct.
2. This Board hereby approves the plan of financing and the issuance of the Bonds by the LACDA to finance costs of the Project. It is the purpose and intent of this

Board that this Resolution constitute approval of the plan of financing and the Bonds by the applicable elected representative of the issuer of the Bonds and the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with Section 147(f) of the Code.

3. The LACDA is hereby authorized and directed to take whatever further action relating to the aforesaid financial assistance may be deemed reasonable and desirable, provided that the terms and conditions under which the Bonds are to be issued and sold shall be approved by the LACDA in the manner provided by law prior to the sale thereof.

4. The Executive Officer of the Board or a deputy thereof is directed to certify and deliver a copy of this Resolution to the LACDA.

6. This Resolution shall take effect immediately upon its adoption.

[Remainder of page intentionally left blank]

PASSED AND ADOPTED by the Board of Supervisors of the County of Los Angeles, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By \_\_\_\_\_  
Chair of the Board of Supervisors

ATTEST:

CELIA ZAVALA,  
Executive Officer  
of the Board of Supervisors

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

APPROVED AS TO FORM:

DAWYN R. HARRISON  
Acting County Counsel

By: Behnaz Tashakorian  
Deputy



RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF ONE OR MORE SERIES OF MULTIFAMILY HOUSING REVENUE BONDS OR NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$33,755,000 FOR THE PURPOSE OF MAKING A LOAN TO PROVIDE FINANCING FOR A MULTIFAMILY RENTAL HOUSING PROJECT KNOWN AS WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, the Los Angeles County Development Authority (the “LACDA”) 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, rehabilitation and construction of a multifamily rental housing development consisting of 120 total units located at 11301 Wilshire Boulevard, unincorporated Los Angeles County, California (the “Project”), known or to be known as West Los Angeles VA Campus Building 402 Apartments and to be owned by VA Building 402 LP (or an affiliate or assign thereof, the “Borrower”); and

WHEREAS, the Project is located within unincorporated County of Los Angeles; and

WHEREAS, the LACDA proposes to issue, pursuant to and in accordance with the Act, its Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F with a principal amount not to exceed \$33,755,000 (the “Bond”) pursuant to this resolution and a Trust Indenture (the “Indenture”) by and between the LACDA and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) to provide funds to finance the costs of the Project; and

WHEREAS, the LACDA proposes to finance the costs of the Project by using the proceeds derived from the sale of the Bond to make a construction-phase loan to the Borrower pursuant to a Loan Agreement (the “Loan Agreement”) between the LACDA and the Borrower; and

WHEREAS, Wells Fargo Bank, National Association (the “Underwriter”) has expressed the intention of the Underwriter to purchase the Bond authorized hereby pursuant to the terms of a Purchase Contract (the “Bond Purchase Agreement”) among the LACDA, the Borrower and the Underwriter; and

WHEREAS, the Bond will be cash-collateralized with the proceeds of a construction loan (the “Construction Loan”) from Wells Fargo Bank, National Association, to the Borrower such that when the proceeds of the Bond are drawn to pay for costs of the Project, corresponding draws

on the Construction Loan will be deposited in a collateral fund held by the Trustee for security of the repayment of the principal and interest on the Bond; and

WHEREAS, pursuant to a Loan Purchase Agreement (the “Loan Purchase Agreement”), California Community Reinvestment Corporation, a California nonprofit public benefit corporation (“CCRC”) is expected, on satisfaction of certain conditions, to provide funds to convert the construction-phase loan to the permanent-phase loan for the Project (“Conversion”); and

WHEREAS, at Conversion, (i) the Bond will be tendered for purchase and purchased with funds held by the Trustee in the collateral fund, (ii) the Bond will be resized to the permanent-phase amount (as determined by CCRC at Conversion), (iii) the Bond will be converted to a Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the “Governmental Lender Note” and to describe the Governmental Lender Note or the Bond, whichever may be outstanding from time to time, the “Obligation”) and purchased by CCRC, (iv) the Indenture and the Loan Agreement will be superseded by a Funding Loan Agreement (the “Funding Loan Agreement”) among CCRC, as funding lender, the LACDA, as governmental lender, and the U.S. Bank Trust Company, National Association, as fiscal agent (the “Fiscal Agent”) and a Borrower Loan Agreement (the “Borrower Loan Agreement”) among the LACDA, the Fiscal Agent, and the Borrower, respectively, (v) the purchase price paid by CCRC for the Governmental Lender Note, together with other available funds, will be used to repay the Construction Loan, and all security related to the Construction Loan will be released or assigned to CCRC; 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 LACDA has disclosed such information in accordance with Section 5852.1 of the California Government Code: (a) the true interest cost of the Obligation; (b) the finance charge of the Obligation, including all third party expenses; (c) the amount of proceeds received by the LACDA for the sale of the Obligation less the finance charge of the Obligation and any reserves or capitalized interest paid or funded with proceeds of the Bond; 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 Los Angeles County Development Authority, as follows:

1. It is hereby found and determined that it is necessary and desirable for the LACDA to provide financing for the Project through the issuance and delivery of the Obligation in order to assist in the acquisition, construction, rehabilitation 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 LACDA hereby determines to issue the Obligation of the LACDA to be

designated as “Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F” or “Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F,” as applicable (or such other name or series designation as may be designated by officers or agents of the LACDA), in one or more series or subseries, each with an appropriate series designation, in an aggregate maximum principal amount not to exceed \$33,755,000. The Obligation shall bear interest at the interest rates set forth in or in accordance with the Indenture or the Funding Loan Agreement, as applicable, maturing as provided in the respective Indenture or the Funding Loan Agreement, as applicable, but not later than 40 years from the date of issue. The Bond shall be in substantially the form set forth in the Indenture, with such appropriate variations, omissions, insertions and provisions as are permitted or required by the Indenture, which shall be appropriately completed when the Bond is prepared. The Governmental Lender 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 Governmental Lender Note is prepared.

The Obligation shall be a limited obligation of the LACDA payable solely from the revenues, receipts and other moneys pledged therefor under the Indenture or the Funding Loan Agreement, as applicable.

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

3. The proposed form of Indenture providing for the issuance of the Bond, in the form presented to this meeting, is hereby approved. The proposed form of Funding Loan Agreement providing for the issuance of the Governmental Lender Note, in the form presented to this meeting, is hereby approved. The Chair of this Board and the Executive Director of the LACDA or his designee are each hereby authorized and directed, for and in the name and on behalf of the LACDA, to execute and deliver the Indenture, in substantially said form, with such additions thereto or changes therein as such officer may approve or recommend upon consultation with counsel to the LACDA and Bond Counsel to the LACDA (provided that such additions or changes shall not authorize an aggregate principal amount of the Bond in excess of the amount stated above or result in an initial interest rate on the Bond in excess of 9%), the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Indenture. At Conversion, the Chair of this Board and the Executive Director of the LACDA or his designee are each hereby authorized and directed, for and in the name and on behalf of the LACDA, 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 LACDA and Bond Counsel to the LACDA (provided that such additions or changes shall not authorize an aggregate principal amount of the Governmental Lender Note in excess of the amount stated above or result in an initial interest rate on the Governmental Lender 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 forms of the Bond and the Governmental Lender

Note, as set forth in the Indenture and the Funding Loan Agreement, respectively, are hereby approved, and the Chair of the Board and Executive Director of the LACDA or his designee are hereby authorized and directed to execute, by manual or facsimile signatures of such officers, and, if deemed necessary or desirable, the Trustee is hereby authorized and directed to authenticate, by manual signatures of one or more authorized officers of the Trustee, the Bond in substantially such form, and the LACDA or the Trustee, as applicable, is hereby authorized and directed to sell and deliver such Bond to the Underwriter in accordance with the Bond Purchase Agreement and the Indenture. At Conversion, the Chair of the Board and Executive Director of the LACDA or his designee are hereby authorized and directed to execute, by manual or facsimile signatures of such officers, and, if deemed necessary or desirable, the Fiscal Agent is hereby authorized and directed to authenticate, by manual signatures of one or more authorized officers of the Fiscal Agent, the Governmental Lender Note in substantially such form, and the LACDA or the Fiscal Agent, as applicable, is hereby authorized and directed to deliver the Governmental Lender Note to the purchaser thereof, which shall be CCRC, or an affiliate thereof, in accordance with 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 Obligation shall be as provided in the Indenture or the Funding Loan Agreement, each as finally executed and applicable; provided, however, that the principal amount of the Obligation shall not exceed \$33,755,000.

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

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

7. The proposed form of Official Statement (the "Official Statement"), in substantially the form presented to this meeting, is hereby approved. This Board hereby approves and authorizes the use and distribution by the Underwriter of a Preliminary Official Statement and/or an Official Statement in substantially such form to prospective purchasers of the Bond. The Chair of this Board and the Executive Director of the LACDA or his designee are each hereby authorized and directed, for and in the name and on behalf of the LACDA, to execute and deliver, at the time of the sale of the Bond, the Official Statement, with such additions or changes in said document as such officer may recommend or approve upon consultation with counsel to the LACDA and Bond Counsel to the LACDA, the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Official Statement.

8. The proposed form of Loan Purchase Agreement, in substantially final form presented to this meeting, is hereby approved. This Chair of this Board and the Executive Director of the LACDA or his designee are each hereby authorized and directed, for and in the name and on behalf of the LACDA, to execute and deliver the Loan Purchase Agreement, with such additions or changes in said document as such officer may recommend or approve upon consultation with counsel to the LACDA and Bond Counsel to the LACDA, the approval of such additions or changes to be evidenced conclusively by the execution and delivery of the Loan Purchase Agreement.

9. 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 Obligation, 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 Obligation, 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, including executing and delivering the Funding Loan Agreement and the Borrower Loan Agreement approved herein to be effective on the Conversion Date and any additional documents required for tax compliance in connection therewith.

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

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

12. This resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Los Angeles County Development Authority, State of California, this 1st day of November, 2022, by the following vote:

AYES: **Supervisors Solis, Kuehl, Hahn, Barger and Mitchell**

NOES:

ABSENT:

ABSTAIN:



ATTEST:

CELIA ZAVALA  
Executive Officer  
of the Board of Commissioners

By: *H Mitchell*  
Chair of the Board of Commissioners

By: *Maria Oleada*  
Deputy

APPROVED AS TO FORM:

DAWYN R. HARRISON,  
Acting County Counsel

By: *Behnaz Tashakorian*  
Deputy

**TRUST INDENTURE**

between

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
as Issuer

and

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

Relating to:

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments), 2022 Series F

Dated as of [November] 1, 2022

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## TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of [November] 1, 2022 (this “Indenture”), is made between the **LOS ANGELES COUNTY DEVELOPMENT AUTHORITY** (together with any successors and assigns, the “Issuer”), a public body, corporate and politic, organized and existing under the laws of the State of California, and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, as trustee (the “Trustee”), under the circumstances summarized in the following recitals (the capitalized terms used in the recitals and granting clauses and not defined therein are as defined in Article I hereof).

WHEREAS, in accordance with Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California (the “Act”), the Issuer is empowered to issue bonds and notes to finance the acquisition, construction, rehabilitation, and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, pursuant to and in accordance with the laws of the State, including without limitation, the Act, the Issuer has determined to issue and sell its Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the “Bonds”) in the aggregate principal amount of \$33,755,000 and to use the proceeds to be derived from the sale thereof to make the Loan to the Borrower pursuant to the Loan Agreement to assist in the financing of the Project to be undertaken by the Borrower; and

WHEREAS, to evidence its obligation to repay the Loan, the Borrower will execute and deliver the Note; and

WHEREAS, the Bonds will be secured by this Indenture, and the Issuer is authorized to execute and deliver this Indenture and to do or cause to be done all acts provided or required herein to be performed on its part; and

WHEREAS, all acts and conditions required to happen, exist and be performed precedent to and in the issuance of the Bonds and the execution and delivery of this Indenture have happened, exist and have been performed, or at the delivery of the Bonds will exist, will have happened and will have been performed (i) to make the Bonds, when issued, delivered and authenticated, valid obligations of the Issuer in accordance with the terms thereof and hereof and (ii) to make this Indenture a valid, binding and legal trust agreement for the security of the Bonds in accordance with its terms; and

WHEREAS, pursuant to that certain Loan Purchase Agreement dated as of even date herewith (as more particularly defined herein, the “Loan Purchase Agreement”), by and among the Borrower, the Construction Lender, the Issuer, the Trustee, and California Community Reinvestment Corporation, a California nonprofit public benefit corporation, as permanent lender (“CCRC”), CCRC has agreed, subject to the satisfaction of the terms and conditions set forth therein on or before the Initial Mandatory Tender Date, to purchase up to \$[14,180,000] in principal amount of the Bonds from the Issuer (subject to the conversion thereof to the below-referenced Governmental Lender Note as a condition to such purchase); and

WHEREAS, if the Conversion Conditions are satisfied on or before the Initial Mandatory Tender Date, Conversion will occur and, on such Conversion Date, (i) the Bonds shall be subject

to Mandatory Tender in accordance with Section 3.02 hereof, (ii) the Purchase Price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds hereunder), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by CCRC at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement attached to the Loan Purchase Agreement) which shall be purchased by CCRC, (v) the Funding Loan Agreement attached to the Loan Purchase Agreement as Exhibit A and Borrower Loan Agreement attached to the Loan Purchase Agreement as Exhibit B shall be delivered by the respective parties and become effective and shall supersede this Indenture and the Loan Agreement, respectively, (vi) the proceeds of the CCRC Purchase Price, along with other funds of the Borrower, shall be deposited into the Construction Loan Prepayment Fund, and (vii) the Construction Loan shall be paid in full and all security related to the Construction Loan shall be released or assigned to CCRC. If the Conversion Conditions are not satisfied on or before the Initial Mandatory Tender Date, CCRC will not have any obligation with respect to the purchase of the Governmental Lender Note.

WHEREAS, in order to assure compliance with Sections 103 and 142 through 150 of the Code, the Issuer and the Borrower have entered into the Tax Certificate, and the Issuer, Borrower and Trustee have entered into the Regulatory Agreement, each of which sets forth various certifications, representations, and covenants relating to the Federal Tax Status of the Bonds; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture, and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of Bond Service Charges on the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders, and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee, and to its successors in trust, and its and their assigns, all right, title and interest of the Issuer in and to (i) the Revenues, including, without limitation, all Loan Payments, Collateral Payments and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan other than amounts received by the Issuer with respect to Reserved Rights, (ii) the Special Funds, including all accounts in those Funds and all money deposited therein and the investment earnings on such money, (iii) the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds is invested, and (except for money in the Construction Loan Repayment Fund, the Rebate Fund or otherwise required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security hereunder by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of this Indenture, (iv) the Note and (v) the

Loan Agreement, except for the Reserved Rights (the foregoing collectively referred to as the “Trust Estate”),

TO HAVE AND TO HOLD unto the Trustee and its successors in that trust and its and their assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

(a) except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,

(b) for the enforcement of the payment of the Bond Service Charges, when payable, according to the true intent and meaning thereof and of this Indenture, and

(c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that

(i) if the principal of the Bonds and the interest due or to become due thereon shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the outstanding Bonds shall have been paid and discharged in accordance with Article VIII hereof, and

(ii) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof,

this Indenture and the rights assigned hereby shall cease, determine and be void, except as provided in Section 8.03 hereof with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that the Trust Estate assigned hereby is to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** In addition to the words and terms defined elsewhere in this Indenture or by reference to the Loan Agreement, unless the context or use clearly indicates another meaning or intent:

“*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.

“*Act of Bankruptcy*” means written notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its material indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) has been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

“*Additional Payments*” means the amounts required to be paid by the Borrower pursuant to the provisions of Section 4.04 of the Loan Agreement.

“*Administrative Expenses*” means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee, the Issuer’s Administrative Fee and the Rebate Analyst’s Fee.

“*Administrative General Partner*” means VA Building 402 LLC, a California limited liability company, and its permitted successors and assigns.

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

“*Authorized Borrower Representative*” means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by any authorized partner of the Borrower, which certificate may designate an alternate or alternates. The Trustee 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 Issuer) a written certificate revoking such person’s authority to act in such capacity. The initial Authorized Borrower Representative is Jordan Pynes, President of the Administrative General Partner.



“*Authorized Denomination*” means \$5,000, or any integral multiple of \$5,000 in excess thereof.

“*Authorized Official*” means the Chair of the Board of Commissioners of the Issuer or the Executive Director of the Issuer and any other person as may be designated and authorized to sign for the Issuer, or such other person at the time designated to act on behalf of the Issuer as evidenced by a written certificate furnished to the Trustee and the Borrower containing the specimen signature of such person and signed on behalf of the Issuer by an Authorized Official. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Official. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Official is an Authorized Official until such time as such provider files with it a written certificate identifying a different person or persons to act in such capacity.

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

“*Beneficial Owner*” means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“*Beneficial Ownership Interest*” means the right to receive payments and notices with respect to the Bonds held in a Book-Entry System.

“*Bond Counsel*” means an attorney, or firm of attorneys, nationally recognized and experienced in legal work relating to the financing of facilities through the issuance of tax exempt bonds, notes, obligations or other securities, selected by the Issuer, and initially means Kutak Rock LLP.

“*Bond Documents*” means, collectively, this Indenture, the Loan Agreement, the Note, the Regulatory Agreement, the Tax Certificate and the Project Certificate.

“*Bond Fund*” means the Bond Fund created in Section 4.01 hereof.

“*Bond Payment Date*” means each Interest Payment Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, Mandatory Tender, upon redemption or acceleration or otherwise.

“*Bond Purchase Agreement*” means the Purchase Contract, dated [\_\_\_\_\_], 2022, among the Underwriter, the Issuer and the Borrower.

“*Bond Resolution*” means the certain approving resolution relating to the issuance and sale of the Bonds, adopted by the Governing Body on [\_\_\_\_\_], 2022.

“*Bonds*” means the Issuer’s Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F authorized in the Bond Resolution and Section 2.01 hereof in an aggregate principal amount not to exceed \$33,755,000.

“*Bond Service Charges*” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity, Mandatory Tender or upon redemption or acceleration.

“*Book-Entry Form*” or “*Book-Entry System*” means, with respect to the Bonds, a form or system, as applicable, under which (a) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (b) the ownership of book-entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book-entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book-entry interests in those Bonds and Bond Service Charges thereon.

“*Borrower*” means VA Building 402 LP, a California limited partnership, and its authorized successors and assigns.

“*Borrower Documents*” means the Financing Documents to which the Borrower is a party.

“*Borrower Loan Agreement*” means the Borrower Loan Agreement attached to the Loan Purchase Agreement as Exhibit B, which Borrower Loan Agreement shall be executed, delivered, and become effective on the Conversion Date.

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

“*Cash Flow Projection*” means a cash flow projection prepared by an Independent firm of certified public accountants, a financial advisory firm, a law firm or other Independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing, to the satisfaction of the Rating Agency, the sufficiency of (a) the amount on deposit in the Project Fund and the Collateral Fund, (b) projected investment income to accrue on amounts on deposit in the Project Fund and Collateral Fund during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges and Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in Section 3.07 hereof, (iii) a release of Eligible Funds from the Negative Arbitrage Account as provided in Section 4.03 hereof, (iv) the liquidation of Eligible Investments pursuant to a Mandatory Tender or an optional redemption of the Bonds as provided in Sections 3.01 or 3.02 hereof, respectively, (v) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to a Mandatory Tender Date, as described in Section 4.10 hereof, or (vi) the purchase, sale or exchange of Eligible Investments as provided in Section 4.10 hereof.

“*CCRC*” shall mean the California Community Reinvestment Corporation, a California nonprofit public benefit corporation, and its successors and assigns.

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

“*Closing Date*” means [November] [\_\_\_], 2022, the date of issuance and delivery of the Bonds.

“*Code*” means the Internal Revenue Code of 1986, as amended and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated 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).

“*Co-General Partner*” means West LA Veterans Collective, LLC, a California limited liability company, and its permitted successors and assigns.

“*Collateral Fund*” means the Collateral Fund created in Section 4.01 hereof.

“*Collateral Payments*” means Eligible Funds paid to the Trustee for the benefit of the Borrower with respect to the repayment of the Loan for deposit into the Collateral Fund pursuant to Section 4.02 of the Loan Agreement and Section 4.06 hereof as a prerequisite to the advance of money in the Project Fund.

“*Completion Certificate*” means the certificate attached as Exhibit C to the Loan Agreement.

“*Completion Date*” means the date of completion of the Project evidenced in accordance with the requirements of Section 3.08 of the Loan Agreement.

“*Confirmation of Rating*” means a written confirmation (or, at the option of the Rating Agency, a new rating with respect to the Bonds), obtained prior to the event or action under scrutiny, from the Rating Agency to the effect that, following the proposed action or event under scrutiny at the time such confirmation is sought, the rating of the Rating Agency with respect to all Bonds then outstanding and then rated by the Rating Agency will not be downgraded, suspended, qualified or withdrawn as a result of such action or event.

“*Construction Lender*” means Wells Fargo Bank, National Association, a national banking association, and its successors and assigns.

“*Construction Loan*” means the taxable construction loan to be made by the Construction Lender to the Borrower in the principal amount of \$[\_\_\_\_\_].

“*Construction Loan Documents*” means the deed of trust, the promissory note, and all other documents required by the Construction Lender in connection with the Construction Loan.

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

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement dated as of [November] 1, 2022, between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“*Controlling Holders*” means in the case of consent or direction to be given hereunder, the Holders of the majority in aggregate principal amount of the outstanding Bonds.

“*Conversion*” means the sale of the Governmental Lender Note to CCRC by the Issuer on the Conversion Date.

“*Conversion Conditions*” shall have the meaning given such term in the Loan Purchase Agreement.

“*Conversion Date*” means the date CCRC makes the Funding Loan upon the satisfaction of the Conversion Conditions; provided, however, the Conversion Date shall occur no earlier than [36 months].

“*Costs of Issuance*” means costs to the extent incurred in connection with, and allocable to, the issuance of the Bonds within the meaning of Section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“*Costs of Issuance Fund*” means the Costs of Issuance Fund created in Section 4.01 hereof.

“*County*” means Los Angeles County, California.

“*default*” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“*Depository*” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under a federal law operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of book-entry interests in the Bonds and to effect transfers of book-entry interests in the Bonds.

“*Designated Office*” means the office of the Trustee at the Notice Address set forth in this Indenture or, solely for purposes of presentation for transfer, payment or exchange of the Bonds, the designated operations office of the Trustee at 633 West 5th Street, 24th Floor, Los Angeles, California 90071, Attn: Global Corporate Trust, or at such other address as may be specified in writing by the Trustee, as provided in Section 11.03 hereof.

“*Dissemination Agent*” means U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“*Dissemination Agent Fee*” means the fee payable to the Dissemination Agent as compensation for its services and the reimbursement to the Dissemination Agent of its expenses in performing its obligations under the Continuing Disclosure Agreement.

“*DTC*” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

“*DTC Participant*” means any participant contracting with DTC under its Book-Entry System and includes securities brokers and dealers, banks and trust companies and clearing corporations.

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

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

(b) money received by the Trustee constituting proceeds of the Construction Loan;

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

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

(e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;

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

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

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

“*Eligible Investments*” means, subject to the provisions of Section 4.10 hereof, any of the following investments that mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture, to the extent the same are at the time legal for investment of the Issuer’s funds (written direction of the Issuer or the Authorized Borrower to invest funds shall be conclusive evidence that the directed investment is at the time a legal investment of the Issuer’s funds):

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated “Aaa-mf” by Moody’s (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security), including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor that are registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

“*Event of Default*” means (a) with respect to this Indenture, any of the events described as an Event of Default in Section 6.01 hereof and (b) with respect to the Loan Agreement, any of the events described as an Event of Default in Section 7.01 of the Loan Agreement.

“*Expense Fund*” means the Expense Fund created in Section 4.01 hereof.

“*Extraordinary Issuer Fees and Expenses*” means the fees, expenses and disbursements payable to the Issuer under this Indenture or any other Financing Document for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by the Issuer, Bond Counsel, and counsel to the Issuer which are to be paid by the Borrower pursuant to Section 4.04 of the Loan Agreement.

“*Extraordinary Services*” and “*Extraordinary Expenses*” mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under this Indenture, the Loan Agreement or any other Financing Document, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include but are not limited to services rendered or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, a default (subject to the expiration of any applicable cure, notice or grace periods) or an Event of Default.

“*Extraordinary Trustee Fees and Expenses*” means the reasonable expenses and disbursements payable to the Trustee under this Indenture for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by the Trustee and the Trustee’s counsel which are to be paid by the Borrower pursuant to Section 4.04 of the Loan Agreement.

“*Favorable Opinion of Bond Counsel*” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an Opinion of Bond Counsel to the effect that such action will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes (subject to the inclusion of any exceptions contained in the opinion delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient(s) thereof).

“*Federal Tax Status*” means, as to the Bonds, the status of the interest on the Bonds as excludable from gross income for federal income tax purposes (except on any Bond during any period during which it is held by a “substantial user” or “related person” to such a substantial user within the meaning of Section 147(a) of the Code).

“*Financing Documents*” means this Indenture, the Bonds, the Loan Agreement, the Note, the Tax Certificate, the Regulatory Agreement, the Project Certificate, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the Construction Loan Documents and any secondary financing documents, and any documents relating to low income housing tax credit equity.

“*Force Majeure*” means any of the causes, circumstances or events described as constituting Force Majeure in Section 7.01 of the Loan Agreement.

“*Funding Loan*” means the tax-exempt loan to be funded by CCRC to the Issuer in the maximum principal amount of \$[14,180,000] on the Conversion Date through CCRC’s purchase of the Governmental Lender Note, in order to fund the Loan to the Borrower from and after the Conversion Date.

“*Funding Loan Agreement*” means the Funding Loan Agreement attached to the Loan Purchase Agreement as Exhibit A, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“*General Partner*” means, individually and collectively, the Administrative General Partner, the Managing General Partner, and the Co-General Partner, and their permitted successors and assigns.

“*Governing Body*” means the Board of Commissioners of the Issuer.

“*Government*” means the government of the United States of America, the government of any other nation, any political subdivision of the United States of America or any other nation (including, without limitation, any state, territory, federal district, municipality or possession) and any department, agency or instrumentality thereof; and “*Governmental*” shall mean of, by, or pertaining to any Government.

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

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

“*Highest Rating Category*” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below “Aaa” or “Aaa/VMIG 1” if rated by Moody’s or “A-1+” or “AA+” if rated by S&P.

“*Holder*” or “*Holder of a Bond*” means the Person in whose name a Bond is registered on the Register.

“*Indenture*” means this Trust Indenture, dated as of [November] 1, 2022, between the Issuer and the Trustee, as amended or supplemented from time to time.

“*Independent*” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner, member or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, partner, member, officer or employee of any partner or member of the Borrower or any Affiliate of the Borrower.

“*Initial Interest Rate*” means [\_\_\_]% per annum.

“*Initial Mandatory Tender Date*” means the earlier of (i) the Conversion Date or (ii) [42 Months].

“*Initial Optional Redemption Date*” means [35 months], or any Business Day thereafter.

“*Interest Payment Date*” means (a) each [\_\_\_\_\_] 1 and [\_\_\_\_\_] 1 of each year, beginning [\_\_\_\_\_] 1, 202[\_\_\_], (b) each Mandatory Tender Date and (c) each Redemption Date. In the case of a payment of defaulted interest, “*Interest Payment Date*” also means the date of such payment established pursuant to Section 2.05 hereof.

“*Interest Period*” means, initially, the period from the Closing Date to and including [\_\_\_\_\_] 1, 202[\_\_\_], and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the day preceding the next Interest Payment Date.

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



“*Interest Rate for Advances*” means the rate per annum that is [\_\_]% plus that interest rate announced by the Trustee or one of its affiliates in its lending capacity as a bank as its “Prime Rate” or its “Base Rate,” but in no event to exceed the Maximum Interest Rate.

“*Investor Limited Partner*” means Wells Fargo Affordable Housing Corp., a North Carolina corporation, and its permitted successors and assigns.

“*Issuance Fee*” means a fee equal to \$[84,387.50], which is payable on the Closing Date to the Issuer from funds provided by or on behalf of the Borrower.

“*Issuer*” means the Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State, or any successor to its rights and obligations under the Loan Agreement and this Indenture.

“*Issuer Documents*” means the Financing Documents to which the Issuer is a party.

“*Issuer Fees and Expenses*” means the Extraordinary Issuer Fees and Expenses.

“*Issuer Indemnified Persons*” means the Issuer, the Governing Body, the County, and each and all of their respective past, present and future directors, commissioners, members, staff, officers, supervisors, officials, counsel, employees, attorneys, agents and advisers (including Bond Counsel and financial advisors) and any person who controls the Issuer, the Governing Body and the County under federal securities laws.

“*Issuer’s Administrative Fee*” means the annual fee of the Issuer payable as set forth in the Regulatory Agreement.

“*Loan*” means the loan by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

“*Loan Agreement*” means the Loan Agreement dated as of [November] 1, 2022, between the Issuer and the Borrower, as amended or supplemented from time to time and assigned by the Issuer to the Trustee, except for the Reserved Rights.

“*Loan Payments*” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.01 of the Loan Agreement.

“*Loan Purchase Agreement*” has the meaning set forth in the recitals hereto.

“*Managing General Partner*” means Housing Corporation of America, a Utah nonprofit corporation, and its permitted successors and assigns.

“*Mandatory Tender*” means a tender of the Bonds required by Section 3.02 hereof.

“*Mandatory Tender Date*” means (i) the Initial Mandatory Tender Date and (ii) if the outstanding Bonds are remarketed pursuant to Article III hereof for a Remarketing Period that does not extend to the final maturity of the Bonds, the Remarketing Date following such Remarketing Period, but in no case later than [60 months].

“*Maturity Date*” means [\_\_\_\_\_].

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

“*Moody’s*” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Remarketing Agent.

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

“*Note*” means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached as Exhibit A to the Loan Agreement and in the principal amount of \$33,755,000, evidencing the obligation of the Borrower to make Loan Payments and any amendments or modifications thereto.

“*Notice Address*” means:

To the Issuer: Los Angeles County Development Authority  
700 West Main Street  
Alhambra, CA 91801  
Attention: Vittorio Banez  
Telephone: (626) 586-1668  
Facsimile: (626) 943-3818

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

To the Trustee: U.S. Bank Trust Company, National Association  
633 West 5th Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Global Corporate Trust  
Ref: LACDA MF (VA Building 402 2022F)  
Facsimile: (213) 453-1019

To the Borrower: VA Building 402 LP  
c/o Thomas Safran & Associates  
11811 San Vicente Boulevard  
Los Angeles, CA 90049  
Attention: President  
Telephone: (310) 820-4888  
Facsimile: (310) 207-6986

With a copy to: Bocarsly Emden Cowan Esmail & Arndt LLP  
64th Floor  
633 West Fifth Street  
Los Angeles, CA 90071  
Attention: Nicole Deddens, Esq.  
Facsimile: (213) 559-0765

To the Investor Limited Partner: Wells Fargo Affordable Housing Corp.  
550 South Tryon Street  
23rd  
Floor, D1086-239  
Charlotte, NC 28202-4200  
Attention: Director of Tax Credit Asset Management

With a copy to: Cannon Heyman & Weiss, LLP  
726 Exchange Street, Suite 500  
Buffalo, NY 14210  
Attention: Constance C. Giessert, Esq.  
Email: CGiessert@chwattys.com

To the Rating Agency: Moody's Investors Service, Inc.  
16th Floor  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
Attention: Public Finance Group-Housing Team  
Email: Housing@moodys.com

To the Remarketing Agent: Wells Fargo Bank, National Association  
30 Hudson Yards, 14th Floor  
New York, NY 10001  
Attention: Patrice Mitchell  
Telephone: (212) 214-2850  
Email: Patrice.mitchell@wellsfargo.com

or such additional or different address, notice of which is given under Section 11.03 hereof.

“*Official Statement*” means the Official Statement dated [\_\_\_\_\_], 2022, relating to the Bonds.

“*Opinion of Bond Counsel*” means an opinion of Bond Counsel.

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

“*Ordinary Services*” and “*Ordinary Expenses*” mean those services normally rendered, and those expenses normally incurred, by a trustee or an issuer under instruments similar to this Indenture.

“*Ordinary Trustee Fees and Expenses*” means amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under this Indenture, payable annually in advance on the Closing Date and on each [November] 1 thereafter while the Bonds are outstanding in an annual amount equal to \$3,600; provided, however, the amount of Ordinary Trustee Fees and Expenses payable under this Indenture is limited to money withdrawn from the Costs of Issuance Fund and the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to Section 4.04 of the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid directly by the Borrower pursuant to Section 4.04 of the Loan Agreement.

“*Organizational Documents*” means the Amended and Restated Agreement of Limited Partnership of the Borrower, as it may be amended from time to time.

“*Outstanding Bonds*,” “*Bonds outstanding*” or “*outstanding*” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under this Indenture, except:

- (a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;
- (b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);
- (c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of this Indenture; and
- (d) Bonds in lieu of which others have been authenticated under Section 2.07 of this Indenture.

“*Permanent Loan Amount*” has the meaning given to the term CCRC Purchase Price in the Loan Purchase Agreement

“*Permitted Liens*” means liens relating to the Project permitted by the Construction Loan Documents.

“*Person*” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“*Plans and Specifications*” means the plans and specifications describing the Project as of the Closing Date and as they may be changed as provided in the Loan Agreement.

“*Predecessor Bond*” of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this

definition, any Bond authenticated and delivered under Section 2.07 hereof in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 2.07, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

“*Project*” means the 120-unit multifamily housing facility known or to be known as West Los Angeles VA Campus Building 402 Apartments located at 11301 Wilshire Boulevard in unincorporated Los Angeles County, California.

“*Project Certificate*” means the Borrower Cost Certificate, dated the Closing Date, executed by the Borrower in connection with the issuance of the Bonds.

“*Project Costs*” means the costs of the Project specified in Section 3.06 of the Loan Agreement.

“*Project Fund*” means the Project Fund created in Section 4.01 hereof.

“*Purchase Price*” has the meaning specified for such term in Section 3.02(a) hereof.

“*Qualified Project Costs*” means the actual costs incurred to acquire, construct and equip the Project which (i) are or were incurred after June 11, 2021, (ii) are (a) chargeable to the Project’s capital account or would be so chargeable either with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs, within the meaning of Treasury Regulation Section 1.103-8(a)(1), and if charged or chargeable to the Project’s capital account are or would have been deducted only through an allowance for depreciation or (b) made for the acquisition of land, to the extent allowed in Section 147(c) of the Code and (iii) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code and subject in all respects to the Tax Certificate and the Project Certificate or (iv) if the costs incurred to acquire, construct and equip the Project were previously paid and are to be reimbursed with proceeds of the Loan such costs were (A) Costs of Issuance, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the Project that do not exceed 20% of the issue price of the Bond (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditure is paid); provided however, that if any portion of the Project is being constructed or developed by the Borrower or an affiliate (whether as a developer, a general contractor or a subcontractor).

“*Rating Agency*” means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns, and initially means Moody’s so long as Moody’s is rating the Bonds.

“*Rating Category*” means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

“*Rebate Amount*” has the meaning specified for such term in the Tax Certificate.

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected by the Issuer and retained by the Borrower at the expense of the Borrower to make the rebate computations required under this Indenture and the Loan Agreement. Initially, the Rebate Analyst will be Kutak Rock LLP.

“*Rebate Analyst’s Fee*” means the fee payable by the Borrower annually in arrears to the Rebate Analyst on each [November] 1 and on the Mandatory Tender Date, in the amount determined by agreement between the Borrower and the Rebate Analyst so long as any of the Bonds are outstanding.

“*Rebate Fund*” means the Rebate Fund created in Section 4.09 hereof.

“*Redemption Date*” means any date on which the Bonds are to be redeemed pursuant to this Indenture.

“*Register*” means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to Section 2.06 hereof.

“*Regular Record Date*” means, with respect to any Bond, the fifteenth day of the calendar month next preceding each Interest Payment Date.

“*Regulations*” means the applicable proposed (if opted into by the Issuer at the direction of the Borrower), temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“*Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of [November] 1, 2022, among the Issuer, the Borrower and the Trustee, as amended or supplemented from time to time.

“*Remarketing Agent*” means initially, Wells Fargo Bank, National Association, and any successor Remarketing Agent that may be designated in accordance with Section 5.15 hereof.

“*Remarketing Agreement*” means the Remarketing Agreement dated as of [November] 1, 2022, between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“*Remarketing Date*” means the date on which the Bonds initially are remarketed, and if the outstanding Bonds on such date or on any subsequent Remarketing Date are remarketed pursuant to this Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“*Remarketing Expenses*” means the reasonable costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel and financial advisor, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees, the costs of a Cash Flow Projection and other costs and expenses

incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

“*Remarketing Notice Parties*” means the Borrower, the Issuer, the Trustee, the Remarketing Agent, the Investor Limited Partner and the Rating Agency.

“*Remarketing Period*” means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to Section 3.07 hereof or the final Maturity Date of the Bonds, as applicable.

“*Remarketing Proceeds Account*” means the Remarketing Proceeds Account of the Bond Fund created in Section 4.01 hereof.

“*Remarketing Rate*” means the interest rate or rates established pursuant to Article III hereof and borne by the Bonds then outstanding from and including the Mandatory Tender Date to, but not including, the immediately succeeding Mandatory Tender Date or the Maturity Date, as applicable.

“*Reserved Rights*” of the Issuer means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to Section 4.04 of the Loan Agreement, including but not limited to the Issuer Fee and Expenses, the Issuance Fee and the Issuer’s Administrative Fee; (c) all rights of the Issuer to receive any Rebate Amount; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the other Financing Documents; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Tax Certificate and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in this Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note, as applicable, regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act, this Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note, (4) the maintenance of insurance by the Borrower, (5) no liability of the Issuer to third parties, and (6) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of this Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement, and the Note, (h) any and all limitations of the Issuer’s liability and the Issuer’s disclaimers of warranties set forth in this Indenture, the Tax Certificate, the Regulatory Agreement or the Loan Agreement, and the Issuer’s right to inspect and audit the books, records and permits of the Borrower and the Project, and (i) all enforcement remedies with respect to the foregoing.

“*Revenues*” means (a) the Loan Payments, (b) the Collateral Payments, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing money. The term “Revenues” does not include any money or investments in the Rebate

Fund, the Construction Loan Repayment Fund, Additional Payments or other payments or amounts with respect to the Reserved Rights.

“*S&P*” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Remarketing Agent.

“*Special Funds*” means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in this Indenture.

“*Special Record Date*” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“*State*” means the State of California.

“*Supplemental Indenture*” means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee in accordance with Article VII hereof.

“*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, between the Issuer and the Borrower, as amended or supplemented from time to time.

“*Tendered Bond*” means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

“*Trustee*” means U.S. Bank Trust Company, National Association, a national banking association, until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter,

“*Trustee*” shall mean the successor Trustee.

“*Trustee Indemnified Persons*” means the Trustee and each and all of its past, present and future directors, officers, employees, attorneys, agents and advisers (including counsel).

“*Trust Estate*” means the property rights, money, securities and other amounts pledged and assigned to the Trustee hereunder pursuant to the Granting Clauses hereof.

“*Underwriter*” means Wells Fargo Bank, National Association.

“*Unredeemed Bonds*” means, on any Mandatory Tender Date, Bonds that are not scheduled to be redeemed pursuant to Section 3.01(a) hereof.

“*Untendered Bond*” has the meaning specified for such term in Section 3.07(a) hereof.

**Section 1.02. Interpretation.** Any reference herein to the Issuer, to the Governing Body or to any commissioner, supervisor, director, member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by



operation of law or lawfully performing their functions. Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of any statute of the State or of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under the Bond Resolution, the Bonds, the Financing Documents or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Bond Service Charges in the amount and manner, at the times, and from the sources provided in the Bond Resolution and this Indenture, except as permitted herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Indenture; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**Section 1.03. Captions and Headings.** The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

**Section 1.04. Content of Certificates and Opinions.** Every certificate or opinion provided for in this Indenture with respect to compliance with any provision hereof made or given by an Authorized Official or an Authorized Borrower Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion or representation given by counsel or an accountant, unless such Authorized Official or Authorized Borrower Representative, as applicable, knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement is based is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters with respect to which information is in the possession of the Issuer or the Borrower, as applicable, upon a certificate or opinion of or representation by an Authorized Official or Authorized Borrower Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such certificate, opinion or representation is based is erroneous. The same Authorized Official or an Authorized Borrower Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Indenture, but different officers, counsel or accountants may certify to different matters.

When any certificate or opinion is required by the express terms of this Indenture to be given by the Issuer on its own behalf, any such certificate or opinion made or given by an Authorized Official (and in no event individually) may be based, (i) insofar as it relates to factual matters, upon a certificate of or representation by the Borrower, (ii) insofar as it relates to legal or accounting matters, upon a certificate or representation by counsel or an accountant, as the case may be, in each case under clauses (i) and (ii) without further investigation or inquiry by such Authorized Official unless such Authorized Official knows that the certificate or opinion with

respect to the matters upon which such certificate or opinion may be based are erroneous in any material respect.

## ARTICLE II

### AUTHORIZATION AND TERMS OF BONDS

#### Section 2.01. Authorization and General Terms of Bonds.

(a) **Authorization of Bonds.** There is hereby authorized, established and created an issue of bonds of the Issuer to be known and designated as the “Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F.” No Bonds may be issued under the provisions of this Indenture except in accordance with this Article II. The total authorized principal amount of Bonds which may be issued under the provisions of this Indenture is \$33,755,000.

(b) **General Terms.** The Bonds shall be in substantially the form as set forth in Exhibit A to this Indenture; shall be numbered consecutively from “R-1” upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Trustee; shall be in Authorized Denominations; and shall be dated the Closing Date.

(c) **Registered Form.** All Bonds shall be in fully registered form, and, except as provided in Section 2.06 hereof, the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

(d) **Further Details.** Each Bond shall be of a single maturity, unless the Trustee shall be directed to authenticate and deliver a Bond of more than one maturity.

#### Section 2.02. Maturity and Interest.

(a) **General.** The Bonds shall bear interest on the principal amount outstanding from the most recent date to which interest has been paid or duly provided for (or, if no interest has been paid or provided for, from the Closing Date), payable on each Interest Payment Date. The Bonds shall bear interest at the Interest Rate for each Interest Period as more specifically set forth hereinafter. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date, subject to prior redemption as set forth in Section 3.01 hereof.

(b) **Initial Interest Rate.** From the Closing Date to, but not including, the Initial Mandatory Tender Date, the interest rate on the Bonds shall be the Initial Interest Rate. On the Initial Mandatory Tender Date, the Bonds shall be subject to Mandatory Tender pursuant to Section 3.02 hereof. If sufficient funds are not available to pay the Purchase Price on the Unredeemed Bonds following such Mandatory Tender on the Initial Mandatory Tender Date and any such Bonds are not redeemed pursuant to Section 3.01(b) hereof, such Bonds shall accrue interest at the Maximum Interest Rate until funds are

available for payment of the principal of and accrued interest on such Bonds, with interest being paid monthly on the first Business Day of each month.

(c) ***Establishment of Remarketing Rate.*** The Remarketing Agent shall establish the interest rate on the Bonds outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 2.02. Not less than 10 Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then outstanding for the Remarketing Period specified by the Remarketing Agent (which shall not extend beyond the Termination Date (as defined in the Loan Purchase Agreement) in effect at the time the new Remarketing Period is determined) at the written direction of the Authorized Borrower Representative as provided in Section 3.07 hereof, would enable the Bonds to be remarketed at a price equal to 100% of the principal amount of Bonds to be remarketed. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; provided that if the rate of interest so determined for such period would exceed the Maximum Interest Rate per annum, the Bonds outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the Maximum Interest Rate. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the Maximum Interest Rate, the Bonds outstanding shall be redeemed pursuant to Section 3.01(b) hereof and not remarketed.

(d) ***Notice of Remarketing Rate.*** The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period (which may be designated by Borrower to the extent permitted by Section 6.02 of the Loan Agreement), immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by electronic method to the Trustee, the Issuer and the Borrower. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon the Trustee, the Issuer, the Borrower and the Holders for the purposes of this Indenture.

(e) ***Usury.*** The Issuer intends to conform strictly to the usury laws applicable to this Indenture and the Bonds and all agreements made in the Bond Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Holders as interest or other amounts paid for the use of money advanced or to be advanced hereunder exceed the Maximum Interest Rate. If, from any circumstances whatsoever, the fulfillment of any provision of the Bond Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law; and if from any circumstances whatsoever, the Holders shall ever receive anything of value deemed interest, the amount of which would exceed the Maximum Interest Rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Holders, to the reduction of the principal remaining unpaid hereunder and under the Bonds and not to the payment of interest, or if such excessive interest exceeds the unpaid

principal balance, such excess shall be refunded to the Borrower. This subsection shall control every other provision of the Bond Documents.

**Section 2.03. Execution and Authentication of Bonds.** Each Bond shall be signed by the manual or facsimile signature of the Chair of the Board of Commissioners or the Executive Director of the Issuer and attested by the manual or facsimile signature of the Executive Officer of the Board of Commissioners of the Issuer. In case any authorized officer of the Issuer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be an authorized officer of the Issuer before the issuance of the Bond, such signature or such facsimile signature thereof shall nevertheless be valid and sufficient for all purposes, the same as if such authorized officer of the Issuer had remained in office until that time. Any Bond may be executed on behalf of the Issuer by such authorized officers as are at the time of execution of such Bond proper officers of the Issuer, although on the date of the Bond such authorized officer was not such officer. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Bonds. The Bonds may be typewritten, printed, engraved, lithographed or otherwise produced.

No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Indenture unless and until a certificate of authentication, substantially in the form set forth in Exhibit A to this Indenture, has been manually signed by the Trustee. The authentication by the Trustee upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and is entitled to the security and benefit of this Indenture. The certificate of authentication of the Trustee may be executed by any person authorized by the Trustee, but it shall not be necessary that the same authorized person sign the certificates of authentication on all of the Bonds.

**Section 2.04. Source of Payment of Bonds.** To the extent provided in and except as otherwise permitted by this Indenture, (i) the Bonds shall be limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from the Revenues, including but not limited to moneys and investments in the Collateral Fund, (ii) the payment of the Bond Service charges on the bonds shall be secured by the assignment of the Revenues hereunder and by this Indenture, and (iii) payments due on the bonds shall also be secured by the Note. Notwithstanding anything to the contrary in the Bond Resolution, the Bonds, or this Indenture, the Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit or the taxing power of the State or of any political subdivision, municipality or other local agency thereof.

THE BONDS ARE ISSUED IN ACCORDANCE WITH THE ACT AND ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE ISSUER. NEITHER THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE ISSUER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE,

OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.

**Section 2.05. Payment and Ownership of Bonds.** Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee. Subject to the provisions of Sections 2.08 and 2.09 hereof, (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office designated by the Trustee, and (b) interest on any Bond shall be paid on each Interest Payment Date by check which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

If and to the extent, however, that payment or provision for payment of interest on any Bond on any Interest Payment Date is not made, that interest shall cease to be payable to the Person who was the Holder of that Bond (or of one or more Predecessor Bonds) as of the applicable Regular Record Date. In that event, except as provided below in this Section 2.05, when money becomes available for payment of the interest, (a) the Trustee shall, pursuant to Section 6.06(d) hereof, establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (b) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first-class mail, postage prepaid (or, when the Bonds are in a Book-Entry System, sent pursuant to the applicable procedures of the Depository), to each Holder at its address as it appears on the Register not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds (or their respective Predecessor Bonds) at the close of business on the Special Record Date.

Subject to the foregoing, each Bond delivered under this Indenture upon transfer thereof, or in exchange for or in replacement of any other Bond, shall carry the rights to interest accrued and unpaid, and to accrue on that Bond, or which were carried by that Bond.

Except as provided in this Section 2.05 and the first paragraph of Section 2.07 hereof, (a) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (b) payment of or on account of the Bond Service Charges on any Bond shall be made only to or upon the order of that Holder or its duly authorized attorney in the manner permitted by this Indenture, and (c) neither the Issuer nor the Trustee shall, to the extent permitted by law, be affected by notice to the contrary. All of those payments shall be valid and effective to satisfy and discharge the liability upon that Bond, including without limitation, the interest thereon, to the extent of the amount or amounts so paid.

**Section 2.06. Registration and Transfer of Bonds.** So long as any of the Bonds remain outstanding, the registration and transfer of Bonds, as provided in this Indenture, will be maintained and kept at the Designated Office of the Trustee.

Subject to the provisions set forth above and in Section 2.09 hereof, any Bond may be transferred upon the Register, upon presentation and surrender thereof at the Designated Office of the Trustee, together with an assignment duly executed by the Holder or its duly authorized attorney in any form which shall be satisfactory to the Trustee. Upon transfer of any Bond and on request of the Trustee, the Issuer shall execute in the name of the transferee, and the Trustee shall authenticate and deliver, a new Bond or Bonds, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed principal amount of, and bearing interest at the same rate and maturing on the same date or dates as, the Bonds presented and surrendered for transfer.

In all cases in which Bonds shall be transferred hereunder, the Issuer shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Indenture. The transfer shall be made without charge; provided, that the Issuer and the Trustee may make a charge for every exchange or transfer of Bonds sufficient to reimburse them for any tax or excise required to be paid with respect to the transfer. The charge shall be paid before a new Bond is delivered.

All Bonds issued upon any transfer of Bonds shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered upon transfer.

**Section 2.07. Mutilated, Lost, Wrongfully Taken or Destroyed Bonds.** If any Bond is mutilated, lost, wrongfully taken or destroyed, in the absence of written notice to the Issuer or the Trustee that a lost, wrongfully taken or destroyed Bond has been acquired by a bona fide purchaser, the Issuer shall execute, and the Trustee shall authenticate and deliver, a new Bond of like date, maturity and denomination as the Bond mutilated, lost, wrongfully taken or destroyed; provided, that (a) in the case of any mutilated Bond, the mutilated Bond first shall be surrendered to the Trustee, and (b) in the case of any lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Trustee evidence of the loss, wrongful taking or destruction satisfactory to the Trustee, together with indemnity satisfactory to an Authorized Borrower Representative, the Trustee and the Issuer.

If any lost, mutilated, wrongfully taken or destroyed Bond shall have matured, instead of issuing a new Bond, the Issuer may direct the Trustee to pay that Bond without surrender thereof upon the furnishing of satisfactory evidence and indemnity as in the case of issuance of a new Bond. The Issuer and the Trustee may charge the Holder of a mutilated, lost, wrongfully taken or destroyed Bond their reasonable fees and expenses in connection with their actions pursuant to this Section 2.07.

Every new Bond issued pursuant to this Section 2.07 by reason of any Bond being mutilated, lost, wrongfully taken or destroyed (a) shall constitute, to the extent of the outstanding principal amount of the Bond mutilated, lost, taken or destroyed, an additional contractual obligation of the Issuer, regardless of whether the mutilated, lost, wrongfully taken or destroyed

Bond shall be enforceable at any time by anyone and (b) shall be entitled to all of the benefits of this Indenture equally and proportionately with any and all other Bonds issued and outstanding hereunder.

All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section 2.07 are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or destroyed Bonds and, to the extent permitted by law, shall preclude any and all other rights and remedies with respect to the replacement or payment of negotiable instruments or other investment securities without their surrender, notwithstanding any law or statute to the contrary now existing or enacted hereafter.

**Section 2.08. Cancellation of Bonds.** Any Bond surrendered pursuant to this Article II for the purpose of payment or retirement or for exchange, replacement or transfer shall be cancelled upon presentation and surrender thereof to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the Issuer, or the Borrower on behalf of the Issuer, may deliver at any time to the Trustee with written instructions from an Authorized Borrower Representative for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Borrower may have acquired in any manner whatsoever. All Bonds so delivered shall be cancelled promptly by the Trustee. Cancelled Bonds shall be disposed of by the Trustee in accordance with its policies and procedures. Certification of the surrender and cancellation shall be made to the Issuer by the Trustee upon the request of the Issuer.

**Section 2.09. Book-Entry Only System.** Notwithstanding any provision of this Indenture to the contrary, the Issuer may direct that all Bonds issued hereunder shall be initially issued in a Book-Entry System, registered in the name of a Depository or its nominee as registered owner of the Bonds, and held in the custody of that Depository. Unless otherwise requested by a Depository, a single certificate will be issued and delivered to the Depository, or held by the Trustee as custodian for the Depository, for each maturity of Bonds. Beneficial Owners of Bonds in a Book-Entry System will not receive physical delivery of Bond certificates except as provided hereinafter. For so long as a Depository shall continue to serve as securities depository for the Bonds as provided herein, all transfers of Beneficial Ownership Interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring Beneficial Ownership Interests of Bonds is to receive, hold or deliver any Bond certificate; provided; that, if a Depository fails or refuses to act as securities depository for the Bonds, the Issuer shall take the actions necessary to provide for the issuance of Bond certificates to the Holders of such Bonds.

With respect to Bonds registered in the name of a Depository, the Issuer, the Borrower and the Trustee shall have no responsibility or obligation to any participant therein or to any Person on whose behalf any participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, neither the Issuer, the Borrower nor the Trustee shall have any responsibility or obligation with respect to (a) the accuracy of the records of the Depository or any participant therein or any other Person, other than a registered owner of the Bonds, as shown in the Register, or any notice with respect to the Bonds or (b) the payment to any participant in the Depository or

any other Person, other than a registered owner of the Bonds, as shown in the Register, of any amount with respect to principal of or interest on or Purchase Price of the Bonds.

Replacement Bonds may be issued directly to Beneficial Owners of Bonds other than a Depository, or its nominee, but only in the event that (a) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (b) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and Beneficial Owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (c) the Issuer has determined (which determination is conclusive as to the Depository and the Beneficial Owners of the Bonds) that the interests of the Beneficial Owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrower shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrower fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrower, at the Borrower's expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the Beneficial Owners of the Bonds. In the event that the Issuer makes the determination noted in (b) or (c) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination), and has made provisions to notify the Beneficial Owners of Bonds of such determination by mailing an appropriate notice to the Depository, the Issuer shall cause to be issued replacement Bonds in certificate form to Beneficial Owners of the Bonds as shown on the records of the Depository provided to the Issuer.

Upon the written consent of 100% of the Beneficial Owners of the Bonds, the Trustee shall withdraw the Bonds from any Depository and authenticate and deliver Bonds fully registered to the assignees of that Depository or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the persons requesting such withdrawal, authentication and delivery; otherwise such withdrawal, authentication and delivery shall be at the cost and expense of the Borrower.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book-entry at a Depository, (a) the requirements in this Indenture of holding, delivering or transferring Bonds shall be deemed modified to require the appropriate Person or entity to meet the requirements of the Depository as to registering or transferring the book-entry to produce the same effect and (b) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of this Indenture to the contrary.

Any provision of this Indenture to the contrary notwithstanding, so long as the Bonds are registered solely in the name of the Depository or its nominee, all payments with respect to principal of, premium, if any, and interest on, the Bonds and all notices with respect to the Bonds shall be made and given in accordance with the policies and procedures of the Depository.

**Section 2.10. Delivery of the Bonds.** Upon the execution and delivery of this Indenture, and satisfaction of the conditions established by the Issuer in the Bond Resolution and in the Bond



Purchase Agreement for delivery of the Bonds, the Issuer shall execute the Bonds and deliver them to the Trustee with written directions to authenticate them. Thereupon, the Trustee shall authenticate the Bonds and deliver them to, or hold them as custodian for, the Depository, as further directed by the Underwriter.

Prior to the delivery of any Bonds against payment therefor, the Trustee shall have received the following:

- (a) a certified copy of the Bond Resolution;
- (b) executed counterparts of this Indenture and the other Financing Documents specifically listed in the definition of Financing Documents;
- (c) an Opinion of Bond Counsel substantially to the effect that this Indenture and the Bonds constitute legal, valid and binding obligations of the Issuer, subject to customary exceptions relating to bankruptcy and insolvency, and an Opinion of Bond Counsel that, under existing law, the interest payable on the Bonds is excludable from gross income for federal income tax purposes (except with respect to interest on any Bond during any period while it is held by a “substantial user” of the Project or a “related person” to such a “substantial user” within the meaning of Section 147(a) of the Code);
- (d) an Opinion of Counsel for the Borrower to the effect that the Borrower Documents have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower in accordance with their respective terms subject to customary qualifications and exceptions;
- (e) a request and authorization signed by an authorized officer of the Issuer authorizing the Trustee to authenticate and deliver the Bonds to the purchaser or purchasers therein identified upon payment to the Trustee for the account of the Issuer of the amount specified in such request and authorization;
- (f) funds the Trustee is required to receive for deposit pursuant to Section 4.02 hereof;
- (g) an executed copy of the promissory note evidencing the Construction Loan;
- (h) a copy of the rating letter confirming the rating assigned to the Bonds provided by the Rating Agency;
- (i) a Cash Flow Projection as of the Closing Date with respect to the sufficiency of amounts on deposit in the Special Funds to pay Bond Service Charges when due; and
- (j) any other documents or opinions which the Trustee, the Issuer, or Bond Counsel may reasonably require, which requirement shall be deemed to be satisfied upon the delivery of the Opinion of Bond Counsel.

## **Section 2.11. Conversion.**

(a) If Conversion occurs, on the Conversion Date, (i) the Bonds shall be subject to Mandatory Tender in accordance with Section 3.02 hereof, (ii) the Purchase Price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds hereunder), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by CCRC at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement attached to the Loan Purchase Agreement) which shall be purchased by CCRC, (v) the Funding Loan Agreement attached to the Loan Purchase Agreement as Exhibit A and Borrower Loan Agreement attached to the Loan Purchase Agreement as Exhibit B shall be delivered by the respective parties and become effective and shall supersede this Indenture and the Loan Agreement, respectively, (vi) the proceeds of the CCRC Purchase Price, along with other funds of the Borrower, shall be deposited into the Construction Loan Prepayment Fund, and (vii) the Construction Loan shall be paid in full and all security related to the Construction Loan shall be released or assigned to CCRC. If the Conversion Conditions are not satisfied on or before the Initial Mandatory Tender Date, CCRC will not have any obligation with respect to the purchase of the Governmental Lender Note.

(b) Provided all Conversion Conditions are satisfied, the Issuer and the Trustee agree to execute and deliver the Funding Loan Agreement, the Governmental Lender Note, and the Borrower Loan Agreement on the Conversion Date, subject to the completion of the forms attached to the Loan Purchase Agreement, including filling in the Conversion Date, the Permanent Loan Amount and attaching the final amortization schedule in accordance with subsection (c) below.

(c) The Governmental Lender Note shall mature on the Maturity Date, subject to earlier prepayment as provided in the Funding Loan Agreement. The unpaid principal balance of the Governmental Lender Note shall be paid on the dates and in the amounts set forth on the initial Funding Loan Amortization Schedule provided on the Closing Date and attached as Schedule 1 to the Governmental Lender Note (the "Funding Loan Amortization Schedule") if the Conversion Date occurs on or prior to the Initial Mandatory Tender Date. If the Initial Mandatory Tender Date is extended as provided herein, the first principal payment date under the Funding Loan Amortization Schedule shall automatically be extended to the first day of the month immediately succeeding the Conversion Date (with the succeeding principal installments remaining consistent with the original schedule but for them occurring on later dates). Additionally, in the event the outstanding amount of the Funding Loan on the Conversion Date is less than the starting principal amount set forth in the initial Funding Loan Amortization Schedule, a new Funding Loan Amortization Schedule will be generated on the Conversion Date at such lesser outstanding principal amount based on the parameters set forth in the Loan Purchase Agreement. In the event the initial Funding Loan Amortization Schedule is modified in accordance with this Section 2.12(c), a replacement Funding Loan Amortization Schedule will be provided by CCRC which will be attached to the Governmental Lender Note on the Conversion Date.

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

### ARTICLE III

#### REDEMPTION, MANDATORY TENDER AND REMARKETING

##### Section 3.01. Redemption of Bonds.

(a) The Bonds are subject to optional redemption prior to their maturity from Eligible Funds, at the written direction of an Authorized Borrower Representative (with delivery of a Cash Flow Projection, but only in the event Eligible Investments must be liquidated prior to the maturity thereof to facilitate the redemption, and written notice to the Trustee and the Issuer at least 35 days prior to the proposed redemption date (25 days if the proposed Redemption Date is the Conversion Date) and, in the case of a redemption in part, specifying the principal amount of the Bonds to be redeemed), either in whole or in part, on and after the Initial Optional Redemption Date at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to such Redemption Date.

(b) The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, but without premium, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in this Indenture have not been met by the dates and times set forth in Section 3.06(a) hereof, (iii) the amount on deposit in the Remarketing Proceeds Account at 11:00 a.m. Eastern time on the Mandatory Tender Date is insufficient to pay the Purchase Price of the outstanding Unredeemed Bonds on such Mandatory Tender Date, or (iv) the Trustee has not received an executed copy of the Favorable Opinion of Bond Counsel described in Section 3.06(a)(iv) by 11:00 a.m. Eastern time on the Mandatory Tender Date. Bonds subject to redemption in accordance with this subsection shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the written direction of the Authorized Borrower Representative.

(c) [Reserved].

(d) Any notice of redemption may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Bond shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and premium, if any, and interest on such Bonds are not received by the Trustee on or prior to the redemption date, the redemption shall not be made and the Trustee shall within a reasonable

time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

(e) [Reserved].

### **Section 3.02. Mandatory Tender.**

(a) The Unredeemed Bonds are subject to Mandatory Tender, at the written direction of an Authorized Borrower Representative (with delivery of a Cash Flow Projection, but only in the event Eligible Investments must be liquidated prior to the maturity thereof to facilitate the payment of the Purchase Price, and written notice to the Trustee and the Issuer at least 35 days prior to the proposed Mandatory Tender Date (25 days if the proposed Mandatory Tender Date is the Conversion Date)), in whole and not in part, on the Mandatory Tender Date and shall be purchased at a price (the "Purchase Price") equal to 100% of the principal amount of such Bonds, plus accrued interest, if any, to the Mandatory Tender Date, without premium. No later than 10:00 a.m., Eastern time, on the Mandatory Tender Date, the Holders of the Unredeemed Bonds shall deliver such Bonds to the Trustee. The Trustee shall utilize the following sources of payments to pay the Purchase Price of the Unredeemed Bonds not later than 2:30 p.m. Eastern time on the Mandatory Tender Date, in the following priority: (i) amounts on deposit in the Remarketing Proceeds Account, and (ii) any other Eligible Funds available or made available for such purpose at the written direction of an Authorized Borrower Representative.

(b) Not less than 30 days before the Mandatory Tender Date, the Trustee shall give written notice of tender and remarketing to the Holders of Unredeemed Bonds by first class mail, postage prepaid (or, when the Bonds are in a Book-Entry System, pursuant to applicable procedures of the Depository), at their respective addresses appearing in the Register. The notice shall state the Mandatory Tender Date and that:

(i) all outstanding Unredeemed Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date and must be tendered for purchase on the Mandatory Tender Date;

(ii) all outstanding Unredeemed Bonds will be purchased on the Mandatory Tender Date at a price equal to the Purchase Price;

(iii) Holders will not have the right to elect to retain their Unredeemed Bonds and any such Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date; and

(iv) the address of the office of the Trustee at which Holders should deliver their Unredeemed Bonds for purchase on the Mandatory Tender Date.

If notice is given as stated in this subsection, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the remarketing or the validity of the proceedings for the remarketing of the Unredeemed Bonds.

**Section 3.03. Notice of Redemption.** Unless waived by any Holder of Bonds to be redeemed, official notice of redemption shall be given by the Trustee on behalf of the Issuer by, subject to the last paragraph of this Section 3.03, mailing a copy of an official redemption notice by first-class mail, postage prepaid, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption. A second notice of redemption shall be given, as soon as practicable, by, subject to the last paragraph of this Section 3.03, first-class mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 30 days following the date fixed for redemption of that Bond. With respect to a mandatory redemption pursuant to Section 3.01(b), the notice of Mandatory Tender provided to Holders pursuant to Section 3.02 shall serve as the notice of redemption required by this Section 3.03 and shall satisfy the requirements of this Section 3.03 and no further notice of redemption will be required to the Holders.

All official notices of redemption shall be dated and shall state:

- (a) the proposed Redemption Date,
- (b) the redemption price,
- (c) if less than all outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks and the respective principal amounts of the Bonds to be redeemed,
- (d) that on the Redemption Date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Designated Office of the Trustee, and
- (f) that the notice of redemption is conditioned upon (i) there being deposited with the Trustee on or prior to the proposed Redemption Date money sufficient to pay the redemption price of the Bonds to be redeemed and, in the case of any redemption premium on Bonds, that there be on deposit Eligible Funds sufficient to pay such redemption premium, and (ii) in the case of a proposed redemption on the Conversion Date, that Conversion occurs on or prior to such date.

If the Bonds are not then held in a Book-Entry System, in addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

- (a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the

rate of interest borne by each Bond being redeemed; and (iv) the maturity date of each Bond being redeemed.

(b) Each further notice of redemption shall be sent at least 15 days before the Redemption Date by electronic method, first class mail, postage prepaid, or overnight delivery service to all registered securities depositories known to the Trustee to then be in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number (if any) identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Failure to receive notice by mailing or other method of delivery of notice provided herein or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

Notice of any redemption hereunder with respect to Bonds held under a Book-Entry System shall be given by the Trustee only to the Depository, or its nominee, as the Holder of such Bonds in the manner required by the Depository. Selection of Beneficial Ownership Interests in the Bonds called for redemption and notice of the redemption to the Beneficial Owners are the responsibility of the Depository and any failure of such Depository to notify the Beneficial Owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Bonds. Notices of redemption may state that no representation is made as to the accuracy or correctness of the CUSIP number or numbers provided therein or on the Bonds.

**Section 3.04. Payment of Redeemed Bonds.** Notice having been sent in the manner provided in Section 3.03 hereof, the Bonds and portions thereof called for redemption shall become due and payable on the Redemption Date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, including interest accrued to the Redemption Date.

Upon the payment of the price of Bonds being redeemed or prepaid, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed or prepaid with the proceeds of such check or other transfer.

If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with premium, if any, interest accrued thereon to the Redemption Date, is held by the Trustee on the Redemption Date, so as to be available therefor on that date and if notice of redemption has been sent as aforesaid, then from and after the Redemption Date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding hereunder. If such money shall not be so available on the Redemption Date, or that notice shall not have been sent as aforesaid, those Bonds and portions thereof shall continue

to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

All money deposited in the Bond Fund and held by the Trustee for the redemption, purchase or prepayment of particular Bonds shall be held in trust for the account of the Holders thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

**Section 3.05. Duties of Remarketing Agent.** The Remarketing Agent shall do the following in connection with the remarketing of the Bonds:

(a) Unless otherwise directed in writing by an Authorized Borrower Representative not less than 10 days before the Mandatory Tender Date, the Remarketing Agent shall offer for sale and use its best efforts to sell Unredeemed Bonds on the Mandatory Tender Date at a price equal to the Purchase Price.

(b) *Establishment of Interest Rate In Connection With Remarketing of Unredeemed Bonds.*

(i) *Establishment of Interest Rate.* From and after the Mandatory Tender Date, the Unredeemed Bonds shall bear interest at the Remarketing Rate determined pursuant to this subsection. Any Remarketing Rate determined by the Remarketing Agent and taking effect pursuant to this Indenture shall be conclusive and binding for the purposes of this Indenture upon the Trustee, the Issuer, the Borrower and the Holders.

(ii) *Determination of Remarketing Rate.* The Remarketing Agent shall determine the Remarketing Rate on or before the Mandatory Tender Date to be effective to a new Mandatory Tender Date selected by an Authorized Borrower Representative with the consent of the Remarketing Agent or the Maturity Date, as applicable. The Remarketing Rate shall be the minimum rate of interest (not to exceed the Maximum Interest Rate) necessary, in the professional judgment of the Remarketing Agent, taking into consideration prevailing market conditions, to enable the Remarketing Agent to remarket all of the Unredeemed Bonds outstanding on a new Mandatory Tender Date at the Purchase Price for the period beginning on the Mandatory Tender Date and ending on or before the next Mandatory Tender Date or the Maturity Date, as applicable, plus an additional amount, if any, equal to the additional interest due on the Bonds for such period (after accounting for any remaining funds in the Bond Fund, other than funds in the Negative Arbitrage Account therein) which amount shall be deposited by the Trustee into the Bond Fund from Eligible Funds provided by or on behalf of the Borrower.

(iii) *Notice.* Immediately upon determining the Remarketing Rate, the Remarketing Agent shall give notice to the other Remarketing Notice Parties. In no event shall the Remarketing Agent give its notice later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate.

### **Section 3.06. Conditions Precedent to Remarketing of Bonds and Notice.**

(a) ***Conditions Precedent to Remarketing of Unredeemed Bonds.*** The remarketing of the Unredeemed Bonds on the Mandatory Tender Date is subject to the satisfaction of each of the following conditions precedent before the Mandatory Tender Date:

(i) Not less than four Business Days before the Mandatory Tender Date, the Trustee has received notice from the Remarketing Agent that all of the outstanding Unredeemed Bonds have been remarketed and that the proceeds from the remarketing are expected to be available to the Trustee on the Mandatory Tender Date and deposited into the Remarketing Proceeds Account in an amount equal to the Purchase Price.

(ii) Not less than four Business Days before the Mandatory Tender Date, the Trustee has received a Confirmation of Rating.

(iii) Not less than two Business Days before the Mandatory Tender Date, the Trustee has received an amount necessary to cover negative arbitrage, if any, on the Unredeemed Bonds through the earlier of the next Mandatory Tender Date or the Maturity Date, as such amount is set forth in a Cash Flow Projection.

(iv) Not less than one Business Day before the Mandatory Tender Date, receipt by the Issuer and the Trustee of a Favorable Opinion of Bond Counsel in connection with the remarketing of the Unredeemed Bonds on the Mandatory Tender Date.

(b) ***Notice of Satisfaction of Conditions Precedent.*** Not less than two Business Days before the Mandatory Tender Date, the Trustee shall give notice to the other Remarketing Notice Parties indicating whether all conditions precedent to the remarketing of the Unredeemed Bonds in Section 3.06(a) hereof have been satisfied.

(c) ***Remarketing Costs.*** The costs of remarketing of the Bonds shall be paid by the Borrower.

### **Section 3.07. Remarketing of Unredeemed Bonds.**

(a) ***Delivery of Bonds for Purchase.*** Each Holder must deliver its Unredeemed Bonds to the Trustee for purchase not later than 10:00 a.m., Eastern time, on the Mandatory Tender Date. Bonds so received by the Trustee shall be held by the Trustee in trust for the tendering Holders pending receipt of funds for the payment of such Bonds.

(b) ***Untendered Bond.*** Any Unredeemed Bond that is not tendered on the Mandatory Tender Date (an “Untendered Bond”) will be deemed to have been tendered to the Trustee as of such Mandatory Tender Date, and, from and after such Mandatory Tender Date shall cease to bear interest and no longer will be considered to be outstanding. In the event of a failure by Holders to deliver Unredeemed Bonds on the Mandatory Tender Date, such Holders will not be entitled to any payment (including any interest to accrue from and



after the Mandatory Tender Date) other than the Purchase Price for such Untendered Bond, and any Untendered Bond will no longer be entitled to the benefits of this Indenture, except for the purpose of payment of the Purchase Price for such Untendered Bond.

(c) ***Delivery of Purchase Price of Remarketed Bonds.*** If the Remarketing Agent has received notice from the Trustee pursuant to Section 3.06(b) hereof that the conditions precedent to the remarketing of the Unredeemed Bonds have been satisfied, the Remarketing Agent shall instruct each purchaser of Unredeemed Bonds to deliver to the Trustee, no later than 11:00 a.m., Eastern time, on the Mandatory Tender Date, in immediately available funds, the Purchase Price for the Unredeemed Bonds it has agreed to purchase in the remarketing. If the Trustee receives the Purchase Price of the Unredeemed Bonds by the required time, the Trustee promptly shall transfer the registered ownership of the Unredeemed Bonds to the respective new purchasers and deliver such Unredeemed Bonds to such purchasers. Moneys deposited with the Trustee for the purchase of Unredeemed Bonds shall be held in trust in the Remarketing Proceeds Account of the Bond Fund and shall be paid to each tendering Holder upon presentation of its Unredeemed Bonds at the designated office of the Trustee. If the Trustee does not receive the Purchase Price of the Unredeemed Bonds by the required time, the Unredeemed Bonds shall be redeemed pursuant to Section 3.01(b)(iii) hereof, and the Trustee shall return any moneys it had received for the purchase of Unredeemed Bonds.

(d) ***Notice of Remarketing to Holders of Untendered Bonds.*** The Trustee shall promptly give notice by registered or certified first class mail, postage prepaid or overnight delivery (or, when the Bonds are in a Book-Entry System, pursuant to the applicable procedures of the Depository), to each Holder of Untendered Bonds stating that interest on such Bonds ceased to accrue on the Mandatory Tender Date and that moneys representing the Purchase Price of such Bonds are available against delivery of such Bonds at the Designated Office of the Trustee.

**Section 3.08. Cancellation of Bonds.** The Trustee shall immediately cancel those Unredeemed Bonds the Purchase Price of which is paid from amounts other than proceeds derived from the remarketing of the Bonds.

**Section 3.09. Recycling Transactions.** Notwithstanding any provision of this Indenture or the Bonds to the contrary, the Issuer shall be permitted to direct payments of the Note prepayments to be transferred to a custodian or trustee selected by the Issuer, in lieu of application to prepay a like portion of the Bonds, so long as the Issuer simultaneously causes other funds to be applied to prepay such portion of the Bonds. The preceding provisions shall apply only for purposes of preserving or “recycling” private activity bond volume cap in accordance with Section 146(i)(6) of the Code.

## ARTICLE IV

### REVENUES AND FUNDS

**Section 4.01. Creation of Funds.** There are hereby established with the Trustee the following funds and accounts to be held in trust and maintained by the Trustee under this Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such accounts as provided in this Indenture);
- (b) the Project Fund, and therein the Bond Proceeds Account;
- (c) the Costs of Issuance Fund;
- (d) the Collateral Fund;
- (e) the Rebate Fund;
- (f) the Expense Fund; and
- (g) the Construction Loan Prepayment Fund (which shall not be pledged to the payment of the Bonds and shall not be part of the Trust Estate).

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in this Indenture. All money deposited in the funds and accounts created hereunder shall be used solely for the purposes set forth in this Indenture. The Trustee shall keep and maintain adequate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

The Trustee shall, at the written direction of an Authorized Borrower Representative and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Borrower or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture or the Tax Certificate with respect to a deposit or use of money in the Special Funds or the Rebate Fund, or result in commingling of funds not permitted hereunder.

**Section 4.02. Allocation of Bond Proceeds and Other Deposits.** On the Closing Date, (i) the proceeds of the sale of the Bonds, \$33,755,000, shall be deposited in the Bond Proceeds Account of the Project Fund, (ii) \$[\_\_\_\_\_] representing the Underwriter's advance, shall be deposited in the Negative Arbitrage Account of the Bond Fund, and (iii) funds in the amount of \$[\_\_\_\_\_] shall be deposited in the Costs of Issuance Fund from funds provided by the Borrower.

**Section 4.03. Bond Fund.** On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount, if any, set forth in Section 4.02 hereof.

The Trustee shall deposit in the Remarketing Proceeds Account of the Bond Fund any amounts received from the remarketing of the Unredeemed Bonds. Money in the Remarketing Proceeds Account shall be held exclusively for the payment of the Purchase Price of the Unredeemed Bonds.

So long as there are any outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid by the Borrower on or before each Interest Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the Bond Service Charges due on the Bonds on such Interest Payment Date.

The Bond Fund (and any accounts therein for which provision is made in this Indenture) and the money and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due, in the following order: (1) from money on deposit in the Bond Fund, and (2) from money on deposit in the Negative Arbitrage Account of the Bond Fund provided further, to the extent funds in the Bond Fund are otherwise insufficient, the trustee shall transfer funds to the Bonds Fund first from the Collateral Fund and second from the Project Fund as needed.

Upon receipt by the Trustee of a Cash Flow Projection provided on behalf of the Borrower, the Trustee is hereby authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Authorized Borrower Representative.

**Section 4.04. Project Fund.** Upon the deposit of Collateral Payments in the Collateral Fund as provided in Section 4.06 hereof, and subject to the provisions of this Section 4.04 hereof, the Trustee may disburse the Bond proceeds on deposit in the Project Fund to or at the written direction of the Construction Lender or the Borrower (with the approval of the Construction Lender), as applicable, for payment of Project Costs in accordance with Section 3.06 of the Loan Agreement. To the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is hereby authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund, and (ii) transfer, from Collateral Payments or other Eligible Funds then deposited in the Collateral Fund, a corresponding amount from the Collateral Fund to the Project Fund, which transfer is hereby deemed to be of the proceeds of the sale of the Eligible Investments then allocated from the Project Fund to the Collateral Fund. The Trustee shall be irrevocably and unconditionally obligated to (i) disburse from the Project Fund an amount equal to the amount deposited into the Collateral Fund to or at the written direction of the Construction Lender or the Borrower (with approval of the Construction Lender), as applicable, or (ii) return to the Construction Lender or the Borrower, as applicable, the amount deposited into the Collateral Fund, within one Business

Day of receipt of such deposit. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund or the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to pay Bond Service Charges then due on the Bonds without further written direction.

The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested in writing by the Issuer, the Investor Limited Partner or the Borrower, after the Project has been completed and a Completion Certificate is filed as provided in Section 4.07 hereof, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer, the Borrower and the Investor Limited Partner. The Trustee shall satisfy this obligation by providing trust statements for all periods in which there are funds in the Project Fund.

Notwithstanding any provision of the Loan Agreement or any other provision of this Indenture to the contrary and except to make necessary interest payments, the Trustee shall not disburse money from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until Collateral Payments or other Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. Prior to making any disbursement (except to the extent necessary to pay Bond Service Charges), the Trustee shall determine that the aggregate principal amount that will be held in (a) the Collateral Fund and (b) the Project Fund, after the anticipated disbursement, is at least equal to the then-outstanding principal amount of the Bonds.

In the event that Bond proceeds remain on deposit in the Project Fund after payment in full of Bond Service Charges in connection with a redemption of the Bonds, such amount may be used to pay costs of the Project as provided in Section 3.06 of the Loan Agreement.

Upon the occurrence and continuance of an Event of Default hereunder because of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to Section 6.03 hereof, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

**Section 4.05. Costs of Issuance Fund.** Amounts on deposit in the Costs of Issuance Fund shall be used by the Trustee to pay Costs of Issuance as directed in writing by an Authorized Borrower Representative. Any amounts remaining on deposit in the Costs of Issuance Fund 90 days after the Closing Date shall be promptly returned to the Borrower or disbursed at the written direction of the Authorized Borrower Representative. Upon such final disbursement, the Trustee shall close the Costs of Issuance Fund.

**Section 4.06. Collateral Fund.** The Trustee shall deposit into the Collateral Fund all Collateral Payments received pursuant to Section 4.02 of the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. Section 4.02 of the Loan Agreement requires the Borrower to cause Collateral Payments to be paid to the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, amounts on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.

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

On any Redemption Date, the Trustee shall transfer all amounts then on deposit in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund, the Trustee shall transfer from the Collateral Fund to the Bond Fund sufficient money to pay Bond Service Charges then due on the Bonds without further written direction.

Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay costs of the Project as provided in Section 3.06 of the Loan Agreement.

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

Anything in this Indenture to the contrary notwithstanding, at any time up to 90 days prior to the Initial Mandatory Tender Date, the purchaser (the "Purchaser") of any obligations issued to refund Bonds may deliver Eligible Funds to the Trustee for deposit into the Collateral Fund, and promptly following such receipt, the Trustee shall transfer a corresponding amount of other Eligible Funds on deposit in the Collateral Fund to the Construction Lender or as otherwise directed by the Purchaser.

**Section 4.07. Completion of the Project.** The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the Completion Certificate required by Section 3.08 of the Loan Agreement. As soon as practicable after the filing with the Trustee of the Completion Certificate, any balance remaining in the Project Fund (other than the amounts retained by the Trustee as described in the Completion Certificate) shall be deposited or applied in accordance with the written direction of an Authorized Borrower Representative pursuant to Section 3.06 of the Loan Agreement.

**Section 4.08. Expense Fund.** There shall be deposited in the Expense Fund the amount, if any, set forth in Section 4.02 hereof and any other amounts delivered to the Trustee for such purpose, including but not limited to any amounts transferred pursuant to Section 4.04 of the Loan Agreement, to pay the amounts required by this Section 4.08. The Trustee shall apply money on deposit in the Expense Fund solely for the following purposes, on the dates specified below, in the following order of priority:

- (a) to transfer money to the Rebate Fund to the extent necessary to pay the Rebate Amount (if any) pursuant to the Tax Certificate;
- (b) to pay Issuer's Administrative Fee;
- (c) to pay the Ordinary Trustee's Fees and Expenses when due;

- (d) to pay the Dissemination Agent Fee when due;
- (e) to pay the Rebate Analyst's Fee when due; and
- (f) to pay the Issuer Fees and Expenses not previously paid.

To the extent money in the Expense Fund is not sufficient to pay the foregoing fees and expenses, such deficiency shall be paid by the Borrower pursuant to Section 4.04 of the Loan Agreement immediately upon written demand. To the extent any excess funds paid by Borrower remain in the Expense Fund following redemption of the Bonds, such amounts shall be disbursed to the Borrower.

**Section 4.09. Rebate Fund.** The Rebate Fund is created for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Issuer or the Holders of the Bonds. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust and applied solely as provided in the Tax Certificate. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under this Indenture. Notwithstanding the foregoing, the Trustee is afforded all the rights, protections and immunities otherwise accorded to it hereunder.

**Section 4.10. Investment of Special Funds.** Except as otherwise set forth in this Section 4.10, money in the Special Funds shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of an Authorized Borrower Representative, and money in the Rebate Fund shall be invested and reinvested by the Trustee as provided in the Tax Certificate. In the absence of written directions of an Authorized Borrower Representative as provided above, the Trustee shall invest such funds in [the Federated US Treasury Cash Reserves Fund, CUSIP No. 60934N674], or if such fund is not available, the Trustee shall be required to invest such funds in the investments described in clause (b) of the definition of Eligible Investments herein. At no time shall the Borrower direct that any funds constituting Gross Proceeds (as defined in the Tax Certificate) of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code, all as set forth in the Tax Certificate. Moneys in the Costs of Issuance Fund and the Expense Fund shall be held uninvested.

Investments of money in the Bond Fund and the Collateral Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide money to pay Bond Service Charges on the Bonds as they become due on each Bond Payment Date. Each investment of money in the Project Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund. Any of those investments may be purchased from or sold to the Trustee, or any bank, trust company or savings and loan association that is an Affiliate of the Trustee. The Trustee may act as principal or agent in the making or disposing of any investment and may utilize its investment department or that of its affiliate and charge its standard investment handling fees. The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable hereunder to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. If the Trustee is required to sell or otherwise dispose of any

Eligible Investments prior to maturity, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any.

An investment made from money credited to the Special Funds shall constitute part of that respective Special Fund. All investment earnings from amounts on deposit in the Project Fund and the Collateral Fund shall be allocated to the Bond Fund. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Special Funds shall be credited to and become part of the Bond Fund. All investment earnings, gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Rebate Fund shall be retained therein. Any investment losses from moneys credited to a Special Fund shall be charged against that Special Fund. The Trustee shall not be liable for losses on investments made in compliance with the provisions of this Indenture. Ratings of Eligible Investments shall be determined at the time of purchase of such Eligible Investments and without regard to ratings subcategories. Following the Closing Date, at the written direction of the Authorized Borrower Representative, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and any amounts deposited in the Negative Arbitrage Account shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Subject to the following sentence, investments shall be sold at the best price obtainable (at least par) whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from the applicable Special Fund. Prior to the Initial Mandatory Tender Date, at the written direction of the Authorized Borrower Representative, the Trustee is permitted to invest in Eligible Investments that mature on or before a Mandatory Tender Date but is not permitted to sell or otherwise dispose of such Eligible Investment prior to maturity at a price below par without first receiving from or on behalf of the Borrower: (i) a Cash Flow Projection, and (ii) Eligible Funds in the amount, if any, set forth in such Cash Flow Projection.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Issuer hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

**Section 4.11. Money To Be Held in Trust.** Except where money has been deposited with or paid to the Trustee pursuant to an instrument restricting its application to particular Bonds, all money required or permitted to be deposited with or paid to the Trustee under any provision of this Indenture or the Note, and any investments thereof, shall be held by the Trustee in trust. Except for money held by the Trustee in the Rebate Fund pursuant to Section 4.09 hereof or in the Construction Loan Repayment Fund pursuant to Section 4.15 hereof, all money described in the preceding sentence held by the Trustee shall be subject to the lien of this Indenture hereof while so held. Money held in the Rebate Fund is not subject to the lien of this Indenture.

The money in any fund or account established under this Indenture shall be subject to the unclaimed property laws of the State.

**Section 4.12. Valuation.** For the purpose of determining the amount on deposit to the credit of any Special Fund or the Rebate Fund, the value of obligations in which money in any fund or account shall have been invested shall be computed at the then fair market value thereof based on such public pricing sources as shall generally be available to the Trustee. The Trustee shall have no liability for the accuracy of any such valuation.

The Eligible Investments shall be valued by the Trustee at any time requested by an Authorized Borrower Representative on reasonable written notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Eligible Investments more than once in any calendar month.

**Section 4.13. Nonpresentment of Bonds.** In the event that any Bond shall not be presented for payment when the principal thereof becomes due, or a check or draft for interest is uncashed, if money sufficient to pay the principal then due of that Bond or of such check or draft shall have been made available to the Trustee for the benefit of its Holder, all liability of the Issuer to that Holder for such payment of the principal then due of the Bond or of such check or draft thereupon shall cease and be discharged completely. Thereupon, it shall be the duty of the Trustee to hold such money, without liability for interest thereon, in a separate account in the Bond Fund for the exclusive benefit of the Holder, who shall be restricted thereafter exclusively to such money for any claim of whatever nature on its part under this Indenture or on, or with respect to, the principal then due of that Bond or of such check or draft. The Trustee shall notify the Borrower in writing of any Bond that has not been presented for payment when the principal thereof becomes due.

If any of such money remains unclaimed by the Holder of a Bond not presented for payment or check or draft not cashed for a period ending the earlier of (a) two years after it becomes payable or distributable or (b) one day less than the applicable escheat laws of the State, the Trustee shall comply with the unclaimed property laws of the State, and all liability of the Issuer, the Borrower and the Trustee to the Holder for the payment of such Bond shall forthwith cease, determine and be completely discharged.

**Section 4.14. Repayment to the Borrower from the Special Funds.** Except as provided in Section 4.09 and Section 4.13 hereof and provided no Event of Default has occurred and is continuing under Section 7.01 of the Loan Agreement, any amounts remaining in the Special Funds (a) after all of the outstanding Bonds shall be paid or deemed paid and discharged under the provisions of this Indenture, and (b) after payment or provision for the payment of all fees, charges and expenses of the Trustee and the Issuer and of all other amounts required to be paid under this Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement and the Note, shall be paid to the Borrower, to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the outstanding Bonds.

**Section 4.15. Construction Loan Prepayment Fund.** On the Conversion Date, the Trustee shall deposit into the Construction Loan Prepayment fund the proceeds of the CCRC Purchase Price and other funds of the Borrower such that the amount in the Construction Loan Prepayment Fund equals the amount required to prepay the Construction Loan in full on the Conversion Date.



## ARTICLE V

### THE TRUSTEE AND REMARKETING AGENT

**Section 5.01. Trustee's Acceptance and Responsibilities.** The Trustee accepts the trusts imposed upon it by this Indenture and has also accepted the Rebate Fund, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article V, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of an Event of Default (as defined in Section 6.01 hereof) of which the Trustee has been notified, as provided in paragraph (D) of Section 5.02 hereof, or of which by that paragraph the Trustee is deemed to have notice, and after the cure or waiver of all Events of Default which may have occurred,

(i) as Trustee hereunder, the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are required specifically to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice pursuant to Section 5.02(D) hereof), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section 5.01 or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section 5.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Controlling Holders relating to the time, method and place of conducting any

proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or satisfactory indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 5.01.

**Section 5.02. Certain Rights and Obligations of the Trustee.** Except as otherwise provided in Section 5.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, or receivers, (ii) shall not be responsible for the negligence or misconduct of such attorney, agents, or receivers appointed with due care, provided, however, such attorneys, agents, and receivers shall indemnify Borrower from harm and damages caused by their negligence and misconduct, and may in all cases pay reasonable compensation to all such attorney, agents, and receivers, and shall be entitled to the advice or opinion of counsel (who may be counsel to the Issuer or the Borrower) concerning all matters of trust hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, and receivers reasonably employed by it in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice, provided, however, such attorneys, agents, and receivers shall indemnify Borrower from harm and damages caused by their negligence and misconduct.

(b) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for:

(i) any recital in the Financing Documents,

(ii) the validity, priority, recording, re-recording, filing or re-filing of this Indenture, any Supplemental Indenture, the Regulatory Agreement or any of the other Financing Documents,

(iii) any instrument or document of further assurance or collateral assignment,

(iv) any financing statements, amendments thereto or continuation statements,

- (v) insurance of the Project or collection of insurance moneys,
- (vi) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,
- (vii) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,
- (viii) the value of or title to the Project, or
- (ix) the maintenance of the security hereof.

(c) The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Loan Agreement except as expressly set forth hereinafter; but the Trustee may require of the Issuer or the Borrower full information and advice as to the observance or performance of those covenants, agreements and obligations. The Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Loan Agreement.

(d) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(e) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, provided that the Trustee has observed and followed accepted procedures and protocols. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to rely upon a certificate signed on behalf of the Issuer or the Borrower, as appropriate, by an Authorized Official or Authorized Borrower Representative as sufficient evidence of the facts recited therein. Prior to the occurrence of an Event of Default hereunder of which the Trustee has been notified, as provided in paragraph (D) of this Section 5.02, or of which by that paragraph the Trustee is deemed to have notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any further evidence.

(g) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any Event of Default hereunder, except Events of Default described in

paragraphs (a) and (b) of Section 6.01 hereof, unless the Trustee shall be notified specifically of the Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Bonds then outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of the Financing Documents, if the Trustee deems it to be desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds or the right of any Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(j) Before taking action hereunder pursuant to Section 5.04 or Article VI hereof (with the exception of any action required to be taken under Section 6.02 hereof or giving notice of the acceleration of the Bonds under Section 6.03 hereof), the Trustee may require that an indemnity bond or other security satisfactory to it be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability resulting from its own negligence, misconduct or willful default. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses pursuant to Section 5.03 hereof.

(k) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein; provided, that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. The Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(l) Any resolution by the Governing Body, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(m) The Trustee shall be entitled to file proofs of claim in bankruptcy. Ordinary Trustee Fees and Expenses and Extraordinary Fees and Expenses of the Trustee are intended to constitute administrative expenses in bankruptcy.

(n) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under the Financing Documents shall extend to the Trustee's officers, directors, and employees. Such immunities and protections and rights to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Indenture, and final payment of the Bonds.

(o) The permissive right of the Trustee to do things enumerated in the Financing Documents shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct. The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds except for (i) the information describing the Trustee or its operations in the Official Statement relating to the Bonds, and (ii) any information describing the Trustee or its operations in any other disclosure document; provided that such information shall have been provided by the Trustee specifically for inclusion in such disclosure document.

(p) In acting or omitting to act pursuant to the Financing Documents, the Trustee shall be entitled to all of the rights, immunities and indemnities accorded to it under this Indenture and the Loan Agreement, including, but not limited to, this Article V.

(q) Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee hereunder (which shall be a date not later than the Closing Date).

(r) The Trustee agrees to accept and act upon instructions or directions pursuant to the Financing Documents sent by unsecured email, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Issuer or the Borrower elect to give the Trustee email or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions. The Borrower agrees: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the Issuer or the Borrower; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a

commercially reasonable degree of protection in light of its particular needs and circumstances.

(s) Upon written request by the Rating Agency, the Trustee shall furnish to the Rating Agency the balance of funds on hand with the Trustee and other information as may be reasonably required to maintain the rating on the Bonds.

(t) The Trustee shall comply with the Issuer's Multi-Family Bond Policies and Procedures, as described herein and as otherwise set forth in Exhibit B hereto, unless waived in writing by the Issuer.

**Section 5.03. Fees, Charges and Expenses of Trustee.** The Trustee shall be paid for its Ordinary Trustee Fees and Expenses and for its Extraordinary Fees and Expenses. Unless and until such time as the Trustee resigns or is replaced, and a successor Trustee is appointed pursuant to Section 5.09 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrower's failure to timely pay such fees.

The Ordinary Trustee Fees and Expenses shall be paid only from (i) the Additional Payments made by the Borrower pursuant to Section 4.04(b) of the Loan Agreement, or (ii) from moneys available therefor in the Expense Fund. Any amounts payable to the Trustee pursuant to this Section 5.03 shall be payable upon written demand to the Borrower and shall bear interest from the date of demand therefor at the Interest Rate for Advances.

Upon an Event of Default under this Indenture, and only upon an Event of Default under this Indenture, the Trustee shall have a first lien with right of payment prior to payment on account of principal of and premium, if any, and interest on any Bond, upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

**Section 5.04. Intervention by Trustee.** The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of at least 25% of the aggregate principal amount of Bonds then outstanding, in any judicial proceeding to which the Issuer or the Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section 5.04 are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that an indemnity bond or other security satisfactory to it be provided to it in accordance with Sections 5.01 and 5.02 hereof before it takes action hereunder.

**Section 5.05. Successor Trustee.** Anything herein to the contrary notwithstanding:

(a) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the whole property or Trust Estate hereunder; and

(b) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the United States of America or the State, (iii) shall be duly authorized to exercise trust powers within the United States of America or the State, and (iv) shall have a reported capital, surplus and retained earnings of not less than \$50,000,000.

**Section 5.06. Appointment of Co-Trustee.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds and the Project, and in particular, in case of the enforcement hereof or thereof upon an Event of Default hereunder, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a co-Trustee. The following provisions of this Section 5.06 are adopted to these ends.

In the event that the Trustee appoints an individual or additional institution as a co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer. In case any co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the co-Trustee.

The Trustee shall not be responsible for the acts of omissions of a co-trustee.

**Section 5.07. Resignation by the Trustee.** The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the Issuer and the Borrower, and by mailing (or, when the Bonds are in a Book-Entry System, by sending pursuant to the applicable procedures of the Depository) written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business 15 days prior to the sending of such notice. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 hereof or an order of a court of competent jurisdiction allowing the Trustee to resign.

**Section 5.08. Removal of the Trustee.** The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Issuer, the Borrower and the Investor Limited Partner, and signed by or on behalf of the Controlling Holders.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Borrower or the Controlling Holders.

The removal of the Trustee under this Section 5.08 shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 of this Indenture.

**Section 5.09. Appointment of Successor Trustee.** If (a) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (b) the Trustee shall be taken under the control of any public officer or officers, or (c) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer; provided, that if a successor Trustee is not so appointed within 10 days after (i) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 5.07 and 5.08 hereof, respectively, or (ii) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, so long as the Issuer shall not have appointed a successor Trustee, the Controlling Holders may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 5.09 within 30 days of such resignation, removal or other vacancy, the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Every successor Trustee appointed pursuant to this Section 5.09 shall meet the requirements of Section 5.05 hereof and shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer, the Borrower and the Investor Limited Partner an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties,



obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer, the Borrower or the Investor Limited Partner, and payment of all fees and expenses owed to it, the predecessor Trustee (a) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (b) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any moneys which it may hold pursuant to this Indenture and shall cease to be registrar, authenticating agent and paying agent for any of the Bonds, to the extent it served in any of those capacities.

**Section 5.10. Adoption of Authentication.** In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee may authenticate those Bonds either in the name of any predecessor or in its own name. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee.

**Section 5.11. Dealing in Bonds.** The Trustee, its Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee did not serve in that capacity.

**Section 5.12. Representations, Agreements and Covenants of Trustee.** The Trustee hereby represents that it is a national banking association organized and existing under and by virtue of the laws of the United States of America, in good standing and duly authorized to exercise corporate trust powers in the State, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$50,000,000. The Trustee covenants that it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the State, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$50,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document to which it is a party providing security for any of the Bonds.

**Section 5.13. Interpleader.** In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a

court of competent jurisdiction located in the State seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

**Section 5.14. Survival of Certain Provisions.** The provisions of Sections 5.01 through 5.13 of this Indenture shall survive the release, discharge and satisfaction of this Indenture.

**Section 5.15. Concerning the Remarketing Agent.** The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. Following any resignation or removal of the Remarketing Agent, the Borrower shall appoint a successor remarketing agent subject to the requirements of Section 5.16 hereof and provide prior notice of such appointment to the Trustee and the Issuer. The Remarketing Agent shall designate to the Trustee its Designated Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee. In addition, the Remarketing Agent will agree particularly to:

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

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

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, which such additional co-Remarketing Agents shall not be an added cost to Borrower, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; provided that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints.

**Section 5.16. Qualifications of the Remarketing Agent.** The Remarketing Agent shall be a member in good standing of the Financial Industry Regulatory Authority having a

capitalization of at least \$5,000,000, or shall be a commercial bank, national banking association or trust company having a capitalization of at least \$15,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice of such resignation to the Issuer, the Borrower and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

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

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

**Section 5.17. Additional Duties.** Notwithstanding any provisions hereof to the contrary, the Trustee shall have the following additional duties:

(a) The Trustee shall provide the Rating Agency upon its written request such information within its possession as the Rating Agency shall reasonably require from time to time in order to maintain the rating on the Bonds; and

(b) Subject to Sections 5.02(H) and 5.07 hereof, the Trustee shall continue to perform its function hereunder without regard to the insufficiency of payment of its fees, provided that nothing herein shall negate the Trustee's right to compensation and indemnification hereunder and as provided in the Loan Agreement.

**Section 5.18. Rating Agency Requests.** The Trustee shall respond in writing, or in such other manner as may be reasonably requested, to requests from the Rating Agency for information deemed necessary by the Rating Agency in order to maintain the rating assigned thereby to the Bonds. The Trustee shall furnish any such requested information in its possession to the Rating Agency and shall, as may be reasonably requested by the Rating Agency, assist in efforts to obtain any necessary information from the Issuer or the Borrower, as applicable.

## ARTICLE VI

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

**Section 6.01. Defaults; Events of Default.** The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default hereunder:

(a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;

(b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, Mandatory Tender, upon redemption, acceleration or otherwise;

(c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by certified United States mail, or overnight delivery service by a national carrier to the Issuer and the Borrower specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Controlling Holders, provided if such failure cannot be reasonably cured within such 30 days, then the Issuer will be afforded an additional sixth days to cure such failure, provided that the Issuer has commenced efforts to cure within the initial 30-day period; and

(d) The occurrence and continuance of an Event of Default as defined in Section 7.01 of the Loan Agreement.

The term “default” or “failure” as used in this Article VI means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in this Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute an Event of Default, as provided above or in the Loan Agreement.

Anything in this Indenture to the contrary notwithstanding, the Investor Limited Partner shall have the cure rights set forth in Section 6.03 hereof.

**Section 6.02. Notice of Default.** If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by electronic method or by certified United States mail or overnight delivery service by a national carrier, to the Issuer, the Borrower, the Remarketing Agent and the Investor Limited Partner, within five days after the Trustee has notice of the Event of Default pursuant to Section 5.02(D) hereof. If an Event of Default occurs of which the Trustee has notice pursuant to this Indenture, the Trustee shall give written notice thereof, within 30 days after the Trustee’s receipt of notice of its occurrence, to the Holders of all Bonds then outstanding as shown by the Register at the close of business 15 days prior to sending that notice.

**Section 6.03. Acceleration.** Upon the occurrence and continuation of an Event of Default described in Section 6.01(a) or (b), the Trustee may, and upon the written request of the Controlling Holders shall, subject to Section 5.02(H), by written notice delivered to the Borrower and the Issuer, declare the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence and continuation of any Event of Default other than those described in Sections 6.01(a) and 6.01(b) hereof, the Trustee may, and upon written consent of all Holders of Bonds then outstanding, shall declare by a notice in writing delivered to the Borrower, the principal of all Bonds then outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, the principal and interest on the Bonds shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the

tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement hereunder (after an opportunity for hearing by the Issuer and the Borrower),

(a) all sums payable hereunder (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee, and

(b) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

The Investor Limited Partner shall be entitled (but not obligated) to cure any Event of Default hereunder within the time frame provided hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 6.04. Other Remedies; Rights of Holders.** With or without taking action under Section 6.03 hereof, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or in equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under this Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested in writing so to do by the Controlling Holders, the Trustee (subject to the provisions of Sections 5.01 and 5.02 hereof and particularly subparagraph 5.01(c)(iv) and subsection 5.02(G) of those Sections), shall exercise any rights and powers conferred by this Section 6.04 and by Section 6.03 hereof.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by this Indenture is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or otherwise to the Trustee or to the Holders now or hereafter existing, provided that the only remedy enforceable against the Issuer shall be for specific performance of its covenants hereunder.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement (other than with respect to the Reserved Rights). In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take any action which would best serve the interests of the Holders in the judgment of the Trustee, applying the standards described in Sections 5.01 and 5.02 hereof.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding without the approval of the Holders so affected.

**Section 6.05. Right of Holders To Direct Proceedings.** Anything to the contrary in this Indenture notwithstanding, the Controlling Holders shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture or any other proceedings hereunder; provided, that (a) any direction shall not be other than in accordance with the provisions of law and of this Indenture, (b) the Trustee shall be indemnified as provided in Sections 5.01 and 5.02 hereof, and (c) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

**Section 6.06. Application of Money.** If at any time after the occurrence of an Event of Default the money held by the Trustee under this Indenture (other than amounts in the Rebate Fund) shall not be sufficient to pay the principal of and interest on the Bonds as the same become due and payable, such money, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of remedies in this Article VI or otherwise, shall, be applied by the Trustee as set forth in this Section 6.06.

After payment of any costs (including court costs), expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all fees of the Trustee for Ordinary and Extraordinary Expenses pursuant to any right given or action taken under the provisions of this Article VI or the provisions of the Financing Documents (including without limitation, court costs and reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under this Article VI), all money received by the Trustee, shall be applied as follows, subject to Section 2.05 hereof and any provision made pursuant to Section 4.10 or 4.11 hereof:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money shall be deposited in the Bond Fund and shall be applied:

(i) First, to the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

(ii) Second, to the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to this Article VI, all of such money shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to this Article VI, and if that declaration thereafter shall have been rescinded and annulled under the provisions of Section 6.03 or 6.10 hereof, subject to the provisions of paragraph (b) of this Section 6.06 in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of paragraph (a) of this Section 6.06.

(d) Whenever money is to be applied pursuant to the provisions of this Section 6.06, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the money is

available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of Section 2.05 hereof for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

**Section 6.07. Remedies Vested in Trustee.** All rights of action (including without limitation, the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders as plaintiffs or defendants. Any recovery of judgment shall be for the benefit of the Holders of the outstanding Bonds, subject to the provisions of this Indenture.

**Section 6.08. Rights and Remedies of Holders.** A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of this Indenture, for the execution of any trust hereof, or for the exercise of any other remedy hereunder, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in Section 5.02(D) hereof, or of which it is deemed to have notice under that paragraph,

(b) the Controlling Holders shall have made written request to the Trustee and shall have offered indemnity to the Trustee as provided in Sections 5.01 and 5.02 hereof, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name within 60 days of receipt of the written request and offer of indemnity.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of this Indenture by its or their action, or to enforce, except in the manner provided herein, any remedy, right or power hereunder. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided herein for the benefit of the Holders of all Bonds then outstanding. Nothing in this Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

**Section 6.09. Termination of Proceedings.** In case the Trustee shall have proceeded to enforce any remedy, right or power under this Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Issuer and the Holders shall be restored to their



former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

**Section 6.10. Waivers of Events of Default.** Except as hereinafter provided, at any time, in its discretion, the Trustee may waive any Event of Default hereunder and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds. The Trustee shall do so upon the written request of the Controlling Holders.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 6.01 hereof or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts provided in Section 6.03 hereof for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

## ARTICLE VII

### SUPPLEMENTAL INDENTURES

**Section 7.01. Supplemental Indentures Generally.** The Issuer and the Trustee may enter into Supplemental Indentures as provided in this Article VII.

**Section 7.02. Supplemental Indentures Not Requiring Consent of Holders.** Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into Supplemental Indentures for any one or more of the following purposes:

- (a) to cure any ambiguity, inconsistency or formal defect or omission in this Indenture;
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) to assign additional revenues under this Indenture;
- (d) to accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) to add to the covenants, agreements and obligations of the Issuer under this Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in this Indenture;

(f) to evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under this Indenture, the Loan Agreement and the Bonds;

(g) to facilitate (i) the transfer of Bonds held in Book-Entry Form from one Depository to another and the succession of Depositories, or (ii) the withdrawal of Bonds delivered to a Depository for use in a Book-Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Depository;

(h) to permit the Trustee to comply with any obligations imposed upon it by law;

(i) to specify further the duties and responsibilities of the Trustee; and

(j) to achieve compliance of this Indenture or the Bonds with any applicable federal securities or income tax law.

The provisions of subsections 7.02(h) and (j) shall not be deemed to constitute a waiver by the Trustee, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to this Indenture or the Bonds.

**Section 7.03. Supplemental Indentures Requiring Consent of Holders.** Exclusive of Supplemental Indentures to which reference is made in Section 7.02 hereof and subject to the terms, provisions and limitations contained in this Section 7.03, and not otherwise, with the consent of the Controlling Holders, evidenced as provided in this Indenture, and with the consent of the Borrower if required by Section 7.04 hereof, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of this Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in this Section 7.03 or Section 7.02 hereof shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on any Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes of this Section 7.03, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by Section 7.04 hereof, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid (or, when the Bonds are in a Book-Entry System, sent pursuant to the applicable procedures of the Depository), to all Holders of Bonds then

outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding sending such notice.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, the Depository's failure to send, or the failure of any Holder to receive, the notice required by this Section 7.03. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this Section 7.03. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated Office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the sending of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Controlling Holders (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds outstanding shall have consented to the Supplemental Indenture, as provided in this Section 7.03, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

**Section 7.04. Consent of the Borrower.** Anything contained herein to the contrary notwithstanding, any Supplemental Indenture executed and delivered in accordance with this Article VII that affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of that Supplemental Indenture; provided, however, that no consent shall be required if the Borrower is the source of an Event of Default under the Loan Agreement. The Trustee has no obligation to determine whether or not (i) a Supplemental Indenture affects in any material

respect any rights or obligations of the Borrower or (ii) the source of an Event of Default is the Borrower. In this regard, the Trustee may conclusively rely on the Opinion of Counsel as provided in Section 7.07 hereof.

**Section 7.05. Responsibilities of Trustee.** Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

**Section 7.06. Authorization to Trustee; Effect of Supplement.** The Trustee is authorized to join with the Issuer in the execution and delivery of any Supplemental Indenture in accordance with this Article VII and to make the further agreements and stipulations which may be contained therein. Thereafter,

- (a) That Supplemental Indenture shall form a part of this Indenture;
- (b) All terms and conditions contained in that Supplemental Indenture as to any provision authorized to be contained therein shall be deemed to be a part of the terms and conditions of this Indenture for any and all purposes;
- (c) This Indenture shall be deemed to be modified and amended in accordance with the Supplemental Indenture; and
- (d) The respective rights, duties and obligations under this Indenture of the Issuer, the Borrower, the Remarketing Agent, the Trustee and all Holders of Bonds then outstanding shall be determined, exercised and enforced hereunder in a manner which is subject in all respects to those modifications and amendments made by the Supplemental Indenture.

Express reference to any executed and delivered Supplemental Indenture may be made in the text of any Bonds issued thereafter, if that reference is deemed necessary or desirable by the Trustee or the Issuer. A copy of any Supplemental Indenture for which provision is made in this Article VII, except a Supplemental Indenture described in Section 7.02(g) hereof, shall be mailed or, when the Bonds are in a Book-Entry System, sent pursuant to the applicable procedures of the Depository, to the Holders by the Trustee. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

**Section 7.07. Opinion of Counsel.** The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel as conclusive evidence that (a) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (b) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article VII. That counsel may be counsel for the Issuer or the Borrower.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee and the Issuer a Favorable Opinion of Bond Counsel.

**Section 7.08. Modification by Unanimous Consent.** Notwithstanding anything contained elsewhere in this Indenture, the rights and obligations of the Issuer and of the Holders, and the terms and provisions of the Bonds and this Indenture or any Supplemental Indenture, may

be modified or altered in any respect with the consent of (a) the Issuer, (b) the Holders of all of the Bonds then outstanding, (c) the Borrower and (d) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

**Section 7.09. Conversion Date.** On the conversion Date and upon the execution and delivery of the Funding Loan Agreement, the Governmental Lender Note, and the Borrower Loan Agreement, this Indenture, the Loan Agreement, and the Bonds shall be deemed amended, restated, and superseded in full by the terms thereof.

## ARTICLE VIII

### DEFEASANCE

**Section 8.01. Release of Indenture.** If (i) all of the outstanding Bonds are paid and discharged, or if there otherwise shall be paid to the Holders of the outstanding Bonds, all Bond Service Charges due or to become due thereon, and (ii) provision also shall be made for the payment of all other sums payable hereunder or under the Loan Agreement, the Regulatory Agreement, the Tax Certificate and the Note, then this Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of Section 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 hereof), and the covenants, agreements and obligations of the Issuer hereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of Section 8.03 hereof if applicable:

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 hereof), and, upon receipt of an Opinion of Counsel stating that all conditions precedent to such release have been satisfied, shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer, and

(b) the Trustee shall assign and deliver to the Issuer any property subject at the time to the lien of this Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under Section 4.14 hereof, or (ii) to be held by the Trustee under Section 4.13 hereof or otherwise for the payment of Bond Service Charges.

**Section 8.02. Payment and Discharge of Bonds.** All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of this Indenture, including without limitation, Section 8.01 hereof, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient Eligible Funds, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable Government Obligations (or a combination of Eligible Funds and noncallable Government Obligations) which are certified by an Independent public

accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any Eligible Funds to which reference is made in subsection (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Service Charges on those Bonds at their maturity or their redemption date, as the case may be; and

(c) the Trustee shall have been given irrevocable written instructions from either the Issuer or the Authorized Borrower Representative to give the written notice to the Holders as required pursuant to the last paragraph of this Section 8.02.

Any money held by the Trustee in accordance with the provisions of this Section 8.02 may be invested by the Trustee only in noncallable Government Obligations having maturity dates, or having redemption dates which, at the option of the owner of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section 8.02 is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section 8.02, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 4.14 hereof for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 8.02, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall (i) state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, and (ii) set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 8.02.

**Section 8.03. Survival of Certain Provisions.** Notwithstanding the foregoing, any provisions of this Indenture which relate to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, non-presentment of Bonds, the holding of money in trust, and repayments to the Borrower from the Bond Fund, the rebate of money to the United States in accordance with Section 4.09 hereof and the Tax Certificate, and the rights and duties of the Trustee in connection with all of the foregoing, or which by their terms survive payment and discharge of the Bonds, shall remain in effect and be binding upon the Trustee and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article VIII shall survive the release, discharge and satisfaction of this Indenture. The obligations of the Borrower to pay the Trustee its fees and expenses hereunder shall survive the release, discharge and satisfaction of this Indenture, but shall terminate effective automatically upon payment in full by the Borrower of all fees and expenses owed by the Borrower to the Trustee as of the date of termination of this Indenture.

## ARTICLE IX

### COVENANTS AND AGREEMENTS OF THE ISSUER

**Section 9.01. Covenants and Agreements of the Issuer.** In addition to any other covenants and agreements of the Issuer contained in this Indenture or the Bond Resolution, the Issuer further covenants and agrees with the Holders and the Trustee as follows:

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

(b) The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver this Indenture, the Loan Agreement, and the Regulatory Agreement, and to perform its duties and discharge its obligations hereunder and thereunder.

(c) This Indenture, the Loan Agreement, and the Regulatory Agreement have been validly authorized, executed and delivered by the Issuer, and assuming due authorization, execution, and delivery by the other parties thereto, constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

(d) ***Rights and Enforcement of the Loan Agreement.*** The Trustee may enforce, in its name or in the name of the Issuer, all rights of the Issuer for and on behalf of the Holders, except for Reserved Rights, and may enforce all covenants, agreements and obligations of the Borrower under and pursuant to the Loan Agreement, regardless of whether the Issuer is in default in the pursuit or enforcement of those rights, covenants, agreements or obligations. The Issuer, however, will do all things and take all actions on its part necessary to comply with covenants, agreements, obligations, duties and responsibilities on its part to be observed or performed under the Loan Agreement, and will take all actions within its authority to keep the Loan Agreement in effect in accordance with the terms thereof.

**Section 9.02. Limitation on Issuer's Obligations.** No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bonds or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Bonds shall be had against the Board of Commissioners, the Board of Supervisors or any official, officer, member, agent or employee of the Issuer, 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 Indenture and the issuance of the Bonds. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, commissioner, officer, agent or employee of the Issuer or the Board of Commissioners, or the Board of Supervisors in other than that person's official capacity. No member, commissioner, officer, agent or employee of the Issuer shall be individually or personally liable for the payment of the principal or redemption price of or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds. No

covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future commissioner, officer, director, employee or agent of the Issuer in his individual capacity, and neither the commissioners, officers, directors, employee or agent of the Issuer in his or her individual capacity, and neither the commissioners, officers, directors, employees or agents of the Issuer executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

**Section 9.03. Issuer Tax Covenants.** It is the intention of the parties hereto that interest on the Bonds shall be and remain excluded from gross income for federal income tax purposes and to that end the Issuer agrees to comply with all the requirements set forth in the Tax Certificate. In the event of a conflict between the terms of this Indenture and the Tax Certificate, the terms of the Tax Certificate shall control.

## ARTICLE X

### AMENDMENTS TO LOAN AGREEMENT, NOTE, REGULATORY AGREEMENT OR TAX CERTIFICATE

**Section 10.01. Amendments Not Requiring Consent of Holders.** Without the consent of or notice to the Holders, the Issuer, the Borrower and the Trustee may enter into or consent to, as applicable, any amendment, change or modification of the Loan Agreement, the Note, the Regulatory Agreement or the Tax Certificate, as the case may be, as may be required or permitted (a) by the provisions of the Financing Documents, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note, the Regulatory Agreement or the Tax Certificate, as the case may be, (c) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 7.02 hereof, or (d) in connection with any other change therein which is not materially prejudicial to the Trustee or the Holders of the Bonds. In executing an amendment, change, or modification of the Loan Agreement, the Note, the Regulatory Agreement or the Tax Certificate, the Trustee may conclusively rely on an Opinion of Counsel (which may be counsel to the Issuer or Borrower) that such amendment, change, or modification is authorized or permitted by this Indenture and the applicable Financing Documents.

**Section 10.02. Amendments Requiring Consent of Holders.** Except for the amendments, changes or modifications contemplated in Section 10.01 hereof, neither the Issuer nor the Trustee shall consent to:

(a) any amendment, change or modification of the Loan Agreement or the Note which would change the amount or time as of which Loan Payments and Collateral Payments are required to be paid, without the giving of notice as provided in this Section 10.02 of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Loan Agreement, the Note, the Regulatory Agreement or the Tax Certificate without the giving of notice as



provided in this Section 10.02 of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of the Controlling Holders.

The consent of the Holders shall be obtained as provided in Section 7.03 hereof with respect to Supplemental Indentures.

If the Issuer or an Authorized Borrower Representative shall request at any time the consent of the Trustee to any proposed amendment, change or modification of the Loan Agreement, the Note, the Regulatory Agreement or the Tax Certificate contemplated in subsections (a) or (b) of this Section 10.02, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by Section 7.03 hereof with respect to notice of Supplemental Indentures. The notice shall set forth briefly the nature of the proposed amendment, change or modification and shall state that copies of the instrument or document embodying it are on file at the Designated Office of the Trustee for inspection by all Holders.

**Section 10.03. Consent of the Borrower.** Anything contained herein to the contrary notwithstanding, any of the documents described in Sections 10.01 and 10.02 hereof executed and delivered in accordance with this Article X shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery thereof.

**Section 10.04. Favorable Opinion of Bond Counsel.** Before the Issuer and the Trustee shall consent to any amendment, change or modification of any of the documents described in Sections 10.01 and 10.02, there shall be delivered (i) a Favorable Opinion of Bond Counsel to the Trustee and the Issuer and (ii) the Issuer and the Trustee shall be fully protected in relying upon, an Opinion of Bond Counsel as conclusive evidence that any such amendment, change or modification complies with the provisions of this Indenture.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.01. Limitation of Rights.** With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Remarketing Agent, the Borrower, the Investor Limited Partner and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Remarketing Agent, the Borrower and the Holders of the Bonds, as provided herein.

**Section 11.02. Severability.** In case any section or provision of this Indenture, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Indenture or any other covenant,

agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

Any illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreement, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

**Section 11.03. Notices.** Except as provided in Section 6.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Borrower, the Investor Limited Partner, the Trustee, the Remarketing Agent and the Rating Agency shall be delivered to their respective Notice Address. Copies of all notices required to be sent to the Borrower shall be sent simultaneously to the Investor Limited Partner.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee, the Borrower or the Investor Limited Partner to one or both of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Limited Partner, the Construction Lender, the Remarketing Agent and the Rating Agency may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or Persons to whose attention the same shall be directed.

In connection with any notice sent pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Borrower, the Investor Limited Partner or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

The Trustee shall notify the Rating Agency and the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) any change in the identity of the Trustee, (c) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, the Note or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (d) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (e) any change or notification of proposed change of the Mandatory Tender Date, (f) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds, (g) any defeasance or acceleration of the Bonds hereunder, (h) any change in the Remarketing Agent or the Construction Lender of which the Trustee has actual knowledge, (i) any sale of Eligible Investments below par, as shown in a Cash Flow Projection delivered to the Rating Agency prior to the sale date, (j) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice or (k) any material change in the investment of funds subject to the lien of this Indenture.

**Section 11.04. Suspension of Mail and Courier Service.** If because of the suspension of delivery of first-class mail or of delivery by overnight courier services, or for any other reason, the Trustee shall be unable to mail by the required class of mail or forward by overnight courier service any notice required to be given by the provisions of this Indenture, the Trustee shall give such notice in such other manner as in the judgment of the Trustee shall most effectively approximate the required mailing or forwarding thereof, and the giving of that notice in that manner for all purposes of this Indenture shall be deemed to be in compliance with the requirement of this Section 11.04. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

**Section 11.05. Payments Due on Non-Business Days.** If any Bond Payment Date is a day other than a Business Day, then payment of interest and principal need not be made by the Trustee on that date, but that payment may be made on the next succeeding Business Day on which the Trustee is open for business with the same force and effect as if that payment were made on the Bond Payment Date, and no interest shall accrue for the period after that date.

**Section 11.06. Instruments of Holders.** Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, required under this Indenture to be executed by any Holder may be in any number of concurrent writings of similar tenor and may be executed by that Holder in person or by an agent or attorney appointed in writing. Proof of (i) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (ii) the execution of any writing appointing any agent or attorney, and (iii) the ownership of Bonds, shall be sufficient for any of the purposes of this Indenture, if made in the following manner, and if so made, shall be conclusive in favor of the Trustee with regard to any action taken thereunder, namely:

(a) The fact and date of the execution by any person of any writing may be proved by the certificate of any officer in any jurisdiction, who has power by law to take acknowledgments within that jurisdiction, that the person signing the writing acknowledged that execution before that officer, or by affidavit of any witness to that execution; and

(b) The fact of ownership of Bonds shall be proved by the Register maintained by the Trustee.

Nothing contained herein shall be construed to limit the Trustee to the foregoing proof, and the Trustee may accept any other evidence of the matters stated therein which it deems to be sufficient. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, of the Holder of any Bond shall bind every future Holder of the same Bond, with respect to anything done or suffered to be done by the Issuer, the Borrower or the Trustee pursuant to that writing.

**Section 11.07. Priority of This Indenture.** This Indenture shall be superior to any liens which may be placed upon the Revenues or any other funds or accounts created pursuant to this Indenture.

**Section 11.08. Binding Effect.** This Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained herein.

**Section 11.09. Counterparts.** This Indenture may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages thereof by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original instrument for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

**Section 11.10. Patriot Act.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. Furthermore, if required by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. No. 107-56. 115 Stat. 272 (2001), as amended, the Trustee may request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The Trustee will request any such documentation under this Section 11.10 from the Borrower in accordance with the Loan Agreement and will not request such documentation from the Issuer.

**Section 11.11. Governing Law.** This Indenture and the Bonds shall be deemed to be contracts made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY

By \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

Dawyn R. Harrison, Acting County Counsel

\_\_\_\_\_  
Deputy

[Signature Page to Trust Indenture]

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

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

[Signature Page to Trust Indenture]

**EXHIBIT A**  
**FORM OF BOND**

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Trustee for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED  
No. R-\_\_\_\_\_

REGISTERED  
\$33,755,000.00

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY**  
**MULTIFAMILY HOUSING REVENUE BONDS**  
**(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS)**  
**2022 SERIES F**

THIS BOND IS BEING ISSUED UNDER THE PROVISIONS OF CHAPTER 1 OF PART 2 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE, AS AMENDED. THIS BOND AND THE ISSUE OF WHICH IT FORMS A PART ARE NOT GENERAL OBLIGATIONS OF THE ISSUER, BUT ARE LIMITED OBLIGATIONS PAYABLE SOLELY FROM THE MONEYS AND PROPERTIES PLEDGED FOR PAYMENT THEREOF.

<b>Initial Interest Rate</b>	<b>Maturity Date</b>	<b>Dated Date</b>	<b>CUSIP</b>
[ ]%	[_____]	[November] [ ], 2022	[_____]

REGISTERED OWNER: CEDE& CO.

PRINCIPAL AMOUNT: THIRTY-THREE MILLION SEVEN HUNDRED FIFTY-FIVE THOUSAND AND 00/100 DOLLARS (\$33,755,000.00)

The Los Angeles County Development Authority (the "Issuer"), a public body, corporate and politic, organized and existing under the laws of the State of California (the "State"), for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount specified above on the Maturity Date specified above (subject to the rights of redemption and tender set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the aforesaid Initial Interest Rate on (a) [ ] 1 and [ ] 1 of each year, beginning [ ] 1, 202[ ], (b) each Mandatory Tender Date, (c) each Redemption Date, (d) the Maturity Date, and (e) the date of acceleration of the Bonds (the "Interest Payment Dates"), until the principal amount is paid or duly provided for. This Bond will bear interest from the most

recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from the date of initial delivery.

This Bond shall bear interest at a rate per annum equal to the Interest Rate, calculated on the basis of a 360-day year consisting of twelve 30-day months.

The principal of this Bond is payable upon presentation and surrender hereof at the designated operations office of the trustee, presently U.S. Bank Trust Company, National Association (the "Trustee"). Interest is payable on each Interest Payment Date by check mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (the "Holder") at the close of business on the fifteenth day of the calendar month next preceding that Interest Payment Date (the "Regular Record Date") on the registration books for this issue maintained by the Trustee, as registrar, at the address appearing therein. Payments in respect of Bonds in a Book-Entry System (as defined in the Indenture) (including principal, premium, if any, and interest) shall be made by wire transfer of immediately available funds to the accounts specified by the Depository (as defined in the Indenture). Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed (or, when the Bonds are in a Book-Entry System, sent pursuant to the applicable procedures of the Depository) to Holders not less than 10 days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

THIS BOND IS ISSUED IN ACCORDANCE WITH THE ACT AND IS A LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE ISSUER. NEITHER THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THIS BOND SHALL BE LIABLE PERSONALLY ON THIS BOND OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE ISSUER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THIS BOND OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THIS BOND OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.



This Bond is one of a duly authorized issue of the Issuer’s Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F (the “Bonds”), issuable under the Trust Indenture dated as of [November] 1, 2022 (the “Indenture”), between the Issuer and the Trustee, in an initial aggregate principal amount of \$33,755,000 and used for the purpose of making a loan (the “Loan”) to be made to VA Building 402 LP, a California limited partnership (the “Borrower”). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, constructing, equipping and improving the Project, as defined in the Indenture, and as further described in the Loan Agreement dated as of even date with the Indenture (the “Loan Agreement”), between the Issuer and the Borrower. The Bonds are limited obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the State of California, and Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code as now in effect and as it may from time hereafter be amended and supplemented (the “Act”), and a resolution duly enacted by the Board of Commissioners (the “Governing Body”) of the Issuer. Any term used herein but not otherwise defined shall have the meaning ascribed to such term in the Indenture.

The Bonds are subject to redemption and mandatory tender prior to their maturity as follows:

(a) ***Optional and Mandatory Redemption.*** The Bonds are subject to optional and mandatory redemption as provided in the Indenture.

(b) ***Mandatory Tender.*** The Unredeemed Bonds are subject to mandatory tender on each Mandatory Tender Date. Holders will not have the right to elect to retain their Unredeemed Bonds, and any such Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date. Upon presentation and surrender of Unredeemed Bonds by a Holder on the date fixed for tender, such Holder shall be paid the Purchase Price of such Bonds. Accrued interest on such Bonds shall be paid separately on such Mandatory Tender Date, which is an Interest Payment Date, in the usual manner.

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

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Loan Agreement to cause the Construction Lender (as defined in the Indenture) to make on its behalf Collateral Payments (as defined in the Indenture)

to the Trustee in the amounts and at the times necessary to pay the principal of and interest (the “Bond Service Charges”) on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer’s right, title and interest in and to the Loan Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Loan Agreement and in the Tax Certificate, the Borrower has executed and delivered the Regulatory Agreement and Declaration of Restrictive Covenants dated as of [November] 1, 2022 (the “Regulatory Agreement”), among the Issuer, the Borrower and the Trustee.

Copies of the Indenture, the Loan Agreement, the Tax Certificate and the Regulatory Agreement are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Trust Estate, as defined and as provided in the Indenture (being, generally, the amounts payable under the Loan Agreement and the Note in repayment of the Loan, amounts on deposit in the Bond Fund, amounts received as Collateral Payments (as defined in the Indenture) required to be received by the Trustee as a condition to, and in the amount of, the disbursement of amounts on deposit in the Project Fund, and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Trust Estate. The Bonds are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC or its custodian with the owners of beneficial interests in those Bonds (the “Book-Entry interests”) having no right to receive from the Issuer Bonds in the form of physical securities or certificates. Ownership of Book-Entry interests in the Bonds shall be shown by book-entry on the system maintained and operated by DTC, its participants (the “Participants”) and certain persons acting through the Participants, and transfers of ownership of Book-Entry interests shall be made only by that Book-Entry System, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of Book-Entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a Book-Entry System, the Issuer may attempt to have established a securities depository/Book-Entry System relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of Book-Entry interests by the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond

certificates in fully registered form (in denominations of \$5,000, or any integral multiple of \$5,000 in excess thereof) to the assignees of the Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those Persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Indenture permits certain amendments or supplements to the Indenture, the Loan Agreement, the Regulatory Agreement, the Tax Certificate and the Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

The Holder of each Bond has only those remedies provided in the Indenture.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (a) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding limited obligations of the Issuer, and (b) precedent to and in the execution and delivery of the Indenture and the Loan Agreement.

[Remainder of page intentionally left blank]

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be to be executed and delivered by the manual or facsimile signature of its Chair of the Board of Commissioners and attested by the manual or facsimile signature of its Executive Officer of the Board of Commissioners of the Issuer as of the Dated Date set forth above.

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY, as Issuer

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

ATTEST:

CELIA ZAVALA  
Executive Officer of the  
Board of Commissioners

\_\_\_\_\_

**CERTIFICATE OF AUTHENTICATION**

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

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

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

Date of Authentication: \_\_\_\_\_, 20\_\_

**FORM OF ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer that Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.	Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.
---	--

Please insert social security number or other tax identification number of transferee

\_\_\_\_\_  
\_\_\_\_\_

**DTC FAST RIDER**

Each Bond shall remain in the Trustee's custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Trustee and DTC.

## **EXHIBIT B**

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

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

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

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

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

LACDA 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. LACDA reserves the right to impose these minimum requirements on bond issues for which LACDA 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 LACDA wherein it acknowledges having sufficient knowledge and experience to evaluate the real estate investment.
4. LACDA 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 LACDA.
7. The developer must indemnify LACDA, 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 LACDA.



**LOAN AGREEMENT**

between

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
as Issuer

and

**VA BUILDING 402 LP,**  
as Borrower

Relating to:

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments), 2022 Series F

Dated as of [November] 1, 2022

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The interest of Los Angeles County Development Authority (the “Issuer”) in this Loan Agreement has been assigned (except for the “Reserved Rights” defined in the Indenture) pursuant to the Trust Indenture, dated as of the date hereof (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association, as trustee (the “Trustee”), and is subject to the security interest of the Trustee thereunder.

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** made and entered into as of [November] 1, 2022 (this “Loan Agreement”) is between the **LOS ANGELES COUNTY DEVELOPMENT AUTHORITY** (together with any successors and assigns, the “Issuer”), a public body, corporate and politic, organized and existing under the laws of the State of California, and **VA BUILDING 402 LP**, a California limited partnership (the “Borrower”), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

A. Pursuant to the Act, the Borrower has requested, and the Issuer has determined to issue, sell and deliver its Bonds, and to finance a loan with the proceeds derived from the sale thereof to the Borrower to assist in the financing of the Project to be undertaken by the Borrower.

B. To provide and secure amounts to repay the Loan of the Bond proceeds and to obtain disbursements thereof, the Borrower will cause Collateral Payments to be made available to the Trustee from funds provided by the Construction Lender.

C. California Community Reinvestment Corporation, a California nonprofit public benefit corporation, as permanent lender (“CCRC”) has entered into a Loan Purchase Agreement whereby CCRC has agreed, subject to the satisfaction of the terms and conditions set forth therein, to facilitate the financing of the Project in the permanent phase.

D. If the Conversion Conditions are satisfied on or before the Initial Mandatory Tender Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Bonds shall be subject to Mandatory Tender in accordance with Section 3.02 hereof, (ii) the Purchase Price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds hereunder), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by CCRC at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement attached to the Loan Purchase Agreement) which shall be purchased by CCRC, (v) the Funding Loan Agreement attached to the Loan Purchase Agreement as Exhibit A and Borrower Loan Agreement attached to the Loan Purchase Agreement as Exhibit B shall be delivered by the respective parties and become effective and shall supersede the Indenture and this Loan Agreement, respectively, (vi) the proceeds of the CCRC Purchase Price, along with other funds of the Borrower, shall be deposited into the Construction Loan Prepayment Fund, and (vii) the Construction Loan shall be paid in full and all security related to the Construction Loan shall be released or assigned to CCRC. If the Conversion Conditions are not satisfied on or before the Initial Mandatory Tender Date, CCRC will not have any obligation with respect to the purchase of the Governmental Lender Note.

E. The Issuer and the Borrower each have full right and lawful authority to enter into this Loan Agreement and to perform and observe the provisions hereof on their respective parts to be performed and observed.

F. In order to assure compliance with Sections 103 and 142 through 150 of the Code, the Issuer and the Borrower have entered into the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 dated the Closing Date (the "Tax Certificate") and the Issuer, the Borrower and U.S. Bank Trust Company, National Association (the "Trustee") have entered into the Regulatory Agreement and Declaration of Restrictive Covenants dated as of [November] 1, 2022 (the "Regulatory Agreement"), each of which sets forth various certifications, representations, and covenants relating to the tax-exempt status of the Bonds.

NOW, THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrower agree as follows (provided that any obligation of the Issuer created by or arising out of this Loan Agreement shall never constitute a general debt of the Issuer, the County, or the State or give rise to any pecuniary liability of the Issuer but shall be payable solely out of the Trust Estate created under the Indenture):

## ARTICLE I

### DEFINITIONS

**Section 1.01. Use of Defined Terms.** In addition to the words and terms defined elsewhere in this Loan Agreement, the words and terms in this Loan Agreement shall have the meanings set forth in the Trust Indenture dated as of [November] 1, 2022 (the "Indenture"), between the Issuer and the Trustee, the Tax Certificate or the Regulatory Agreement.

**Section 1.02. Interpretation.** Any reference herein to the Issuer, to the Governing Body or to any member, director, officer, commissioner, supervisor, or employee of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of any statute of the State or the United States of America includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under this Loan Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Loan Agreement; and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**Section 1.03. Captions and Headings.** The captions and headings in this Loan Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

## **ARTICLE II**

### **REPRESENTATIONS**

**Section 2.01. Representations of the Issuer.**

(a) The Issuer represents that:

(i) The Issuer is a public body, corporate and politic, organized and existing under the laws of the State. Under the provisions of the Act and the Bond Resolution, the Issuer is authorized to enter into the Issuer Documents and to carry out its obligations thereunder. By proper action of its Governing Body, the Issuer has been duly authorized to execute and deliver the Issuer Documents and to issue and sell the Bonds.

(ii) The Issuer covenants that it will not pledge the amounts derived from this Loan Agreement other than as contemplated in the Indenture.

(iii) The Issuer hereby finds and determines that financing the Project by the issuance of the bonds will further the public purposes of the Act.

(iv) No member or director of the Issuer, nor any other official or employee of the Issuer, has any interest, financial, employment or other, in the Borrower, the Project, or in the transactions contemplated hereby.

(b) The Issuer makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the sale of the Bonds, or as to the correctness, completeness or accuracy of such statements.

**Section 2.02. Representations and Covenants of the Borrower.** The Borrower represents and covenants that:

(a) The Borrower (i) is a limited partnership duly formed and validly existing under the laws of the state of California, duly authorized and qualified to transact business in the State, and (ii) is authorized to own, on a long-term basis, and operate the Project.

(b) It has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance of the Borrower Documents do not, and will not, to the Borrower's knowledge, violate any provision of law applicable to the Borrower and do not, and will not, conflict with or result in a default in any material respect under any agreement or instrument to which the Borrower is a party or by which it is bound.

The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower, enforceable in accordance with their terms except as may be limited by laws relating to bankruptcy, insolvency, reorganization or moratorium or other similar laws affecting creditors' rights and general principles of equity.

(c) The Borrower does not currently operate or conduct any business except as related to the financing, ownership, operation and construction of the Project. The Borrower has no material assets or property other than its anticipated interest in the Project.

(d) The Administrative General Partner (i) is a limited liability company duly formed and validly existing under the laws of the State, and (ii) has the requisite legal authority to act as the administrative general partner of the Borrower. The Co-General Partner (i) is a limited liability company duly formed and validly existing under the laws of the State, and (ii) has the requisite legal authority to act as the co-general partner of the Borrower. The Managing General Partner (i) is a nonprofit corporation duly formed and validly existing under the laws of the state of Utah and (ii) has the requisite legal authority to act as the managing general partner of the Borrower.

(e) The provision of financial assistance to be made available to it under this Loan Agreement and the commitments therefor made by the Issuer have induced the Borrower to undertake the transactions contemplated by this Loan Agreement.

(f) The Borrower will use and operate the Project in a manner consistent with the Act and in accordance with the Regulatory Agreement, the Tax Certificate and the Project Certificate for as long as required by the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer which will be consistent with the Act, the Code, the Regulatory Agreement, the Tax Certificate and the Project Certificate.

(g) The Project will be completed in material accordance with the Plans and Specifications and the portion of the Project funded with the proceeds of the Bonds will constitute a qualified residential rental project within the meaning of Section 142(d) of the Code, all as further set forth in the Tax Certificate, the Regulatory Agreement and the Project Certificate, and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable Governmental regulations and as to be consistent with the Act.

(h) The Project will be located entirely within the County.

(i) The Borrower has obtained or will obtain all consents, approvals, permits, authorizations and orders of any governmental or regulatory agency that are required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds, the execution and delivery of the Borrower Documents or the performance by the Borrower of

its obligations thereunder, or that were or are required for the acquisition, construction, equipping and/or operation of the Project.

(j) No litigation at law or in equity or proceeding before any governmental agency involving the Borrower is pending or, to the best of its knowledge, threatened in which any liability of the Borrower is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets of the Borrower or that would affect its existence or authority to do business, the acquisition, construction, equipping or operation of the Project, the validity of any Borrower Documents or the performance of its obligations thereunder.

(k) The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money (unless in dispute) and is not in material default under any instrument under and subject to which any indebtedness has been incurred (unless in dispute), and to its knowledge no event has occurred and is continuing that, under the provisions of any such agreement, with the lapse of time or the giving of notice, or both, would constitute an event of default by the Borrower thereunder.

(l) The Borrower is not in default under or in violation of, and the execution, delivery and compliance by the Borrower with the terms and conditions of the Borrower Documents do not and will not conflict with or constitute or result in a default by the Borrower in any material respect under or violate, (i) the Organizational Documents, (ii) the General Partner's organizational documents, (iii) any agreement or other instrument to which the Borrower is a party or by which it or its assets are bound, or (iv) to its knowledge, any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower or its property, and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(m) The Borrower has received and reviewed a copy of the Indenture and approves the terms and conditions thereof and agrees to the terms thereof.

(n) The Borrower has filed or caused to be filed all federal, state and local tax returns that are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(o) The Borrower has or will have a subleasehold interest in and to the land upon which the Project is located and will have absolute ownership of the improvements and personal property comprising the Project, and upon the Borrower's acquisition of the Project there will be no liens or encumbrances against such property other than the liens contemplated by the Construction Loan Documents and other Permitted Liens.

(p) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such



financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project; and that it has not relied on the Issuer or its counsel for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Loan Agreement and the Indenture or otherwise relied on the Issuer or its counsel in any manner.

(q) The Borrower's representations and warranties survive the issuance of the Bonds.

(r) The Borrower's representations and warranties remain operative and in full force and effect regardless of any investigations by or on behalf of the Issuer or the results thereof.

(s) As to enforceability (subject to standard exceptions): (i) this Loan Agreement (to the extent validly assigned to the Trustee pursuant to the Indenture) and the Note will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower by the Trustee in accordance with their terms for the benefit of the Holders of the Bonds, and (ii) the Reserved Rights related to the Borrower constitute the legal, valid, and binding agreements of the Borrower enforceable against the Borrower by the Issuer in its own right (or, in the case of indemnification of any Issuer Indemnified Person, by such Issuer Indemnified Person in his, her or its own right) in accordance with their terms.

(t) No written information, exhibit or report furnished to the Issuer by the Borrower in its application for financing or by the Borrower or its representatives in connection with the distribution of the Official Statement or the negotiation of this Loan Agreement or the other Borrower Documents, regardless of whether the Issuer is a party thereto (including any financial statements, whether audited or unaudited, and any other financial information provided in connection therewith) contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(u) The Borrower shall provide no less than 30 days written notice to the California Debt Limit Allocation Committee and to the Issuer prior to the redemption of the Bonds, in whole or in part, on the Mandatory Tender Date.

The Borrower acknowledges that the representations and covenants herein made by the Borrower have been expressly and specifically relied upon by the Issuer in determining to make the Loan to the Borrower and the Loan would not have been made but for such representations and covenants. All material information provided by the Borrower to the Issuer concerning the Project and the Borrower was and is on the date of execution of this Loan Agreement true and correct in all material respects.

**Section 2.03. Conversion.** The Borrower acknowledges and agrees that the Loan is subject to Conversion as provided for in Section 2.11 of the Indenture.

## ARTICLE III

### PLAN OF FINANCING

#### **Section 3.01. Issuance of Bonds; Application of Proceeds.**

(a) To provide funds to make the Loan for purposes of assisting the Borrower in paying Project Costs, the Issuer shall simultaneously with the execution and delivery hereof proceed with the issuance, sale and delivery of the Bonds upon receipt by the Trustee of the items listed in Section 2.10 of the Indenture. The Issuer agrees the proceeds of sale of the Bonds will be deposited in accordance with the Indenture.

(b) The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, mandatory tender and remarketing pursuant to and as set forth in the Indenture. The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture. The Borrower agrees to perform fully and faithfully all the duties and obligations which the Issuer has covenanted and agreed to in the Indenture to cause the Borrower to perform.

(c) Pending disbursement pursuant to Section 3.06 hereof, the proceeds of the Bonds deposited in the Project Fund, together with any investment earnings thereon, shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

**Section 3.02. The Loan.** The Issuer agrees, upon the terms and conditions herein, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to make the Loan shall be deemed fully discharged upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Trustee.

#### **Section 3.03. Construction Loan to Borrower.**

(a) To provide and secure funds for the repayment of the Loan, and to provide for the delivery of the Collateral Payments, the Borrower shall simultaneously with the execution and delivery hereof, proceed with obtaining the Construction Loan. In particular, the Borrower will promptly take all necessary actions on its part to close the Construction Loan and satisfy all other terms, conditions and requirements of the Construction Lender.

(b) The Borrower represents that the Construction Loan will be secured pursuant to the Construction Loan Documents.

(c) In connection with the Construction Loan, the Borrower shall execute and deliver the Construction Loan Documents to which it is a party, with such provisions as may be consistent with the terms and provisions of this Loan Agreement.

(d) The Borrower agrees to cooperate with the Construction Lender in any manner reasonably requested.

**Section 3.04. Acquisition, Construction, Installation, Equipment and Improvement.**

The Borrower (a) has acquired or is in the process of acquiring a leasehold or subleasehold interest in the Project site and shall construct, improve and equip the Project with all reasonable dispatch and in substantial accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction, installation, equipment and improvement from funds made available therefor in accordance with this Loan Agreement or otherwise, except to the extent being contested in good faith, and (c) subject to commercially reasonable efforts, shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition, construction, improvement and equipping of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate all workers employed in the construction, improvement and equipping of the Project as required by law, except to the extent being contested in good faith.

**Section 3.05. Plans and Specifications.** The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made which would change the purpose of the Project to other than purposes permitted by the Act, the Tax Certificate, the Regulatory Agreement and the Project Certificate.

**Section 3.06. Disbursements From the Project Fund.** Subject to the provisions below and so long as no Event of Default hereunder has occurred and is continuing for which the principal amount of the Bonds has been declared to be immediately due and payable pursuant to Section 7.02 hereof and Section 6.03 of the Indenture, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

(a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, engineering, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to the limitations set forth in the Tax Certificate, Costs of Issuance of the Bonds, including, financial, legal, accounting, cash flow verification, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, improvement and equipping of the Project.

(g) Payment of interest on the Bonds during the construction period.

(h) Subject to reallocation for federal income tax purposes as described in the Tax Certificate, payment of interest on the Construction Loan.

Any disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only upon the receipt by the Trustee of: (a) a disbursement request in the form attached hereto as Exhibit B, on which the Trustee may conclusively rely; and (b) Collateral Payments in an amount equal to the amount of any such disbursement request for deposit in the Collateral Fund as provided in Section 4.02 hereof. The Trustee shall not make disbursements more frequently than once each calendar month. Each such disbursement request shall be consecutively numbered and accompanied by a copy of the approval of the Construction Lender of the payments or reimbursements requested. Proceeds of the Bonds disbursed pursuant to the provisions of this Loan Agreement may only be used to pay those Project Costs identified in the Sources and Uses of Funds attached hereto as Exhibit D, as it may be amended pursuant to the agreement of the Construction Lender and the Borrower.

Any disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds shall be accompanied by a Favorable Opinion of Bond Counsel.

Any money in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs, at the direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Service Charges.

Notwithstanding any provision of this Loan Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that Eligible Funds in the Collateral Fund plus Eligible Funds in the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds; provided, however, the Trustee shall be permitted to transfer funds from the Project Fund to the Collateral Fund upon the direction of the Borrower in the form set forth on Exhibit B hereto, provided that the result of such transfer is that the amount

of Eligible Funds remaining on deposit in the Project Fund plus Eligible Funds on deposit in the Collateral Fund is at least equal to then outstanding principal amount of the Bonds.

**Section 3.07. Borrower Required To Pay Costs in Event Project Fund Insufficient.** If money in the Project Fund is not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in substantial accordance with the Plans and Specifications and shall pay all such additional Project Costs other sources including from its own funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amounts deposited in the Costs of Issuance Fund. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under this Loan Agreement.

**Section 3.08. Completion Date.** The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form of Exhibit C attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a) and (b) of the Completion Certificate.

**Section 3.09. Investment of Fund Money.**

(a) At the written request of the Authorized Borrower Representative, any money held as part of the Special Funds and the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in the Indenture and the Tax Certificate. Notwithstanding any other provision of this Loan Agreement or any other instrument, the Borrower will take no action, nor shall the Borrower direct the Trustee to take or approve the Trustee taking any action or direct the Trustee to make or approve the Trustee's making any investment or use of proceeds of the Bonds, or any other moneys which may arise out of or in connection with this Loan Agreement, the Indenture or the Project, that would cause the Bonds to be treated as an "arbitrage bond" within the meaning of Section 148 of the Code. In addition, the Issuer and the Borrower covenant and agree to comply with the requirements of Section 148(f) of the Code as it may be applicable to the Bonds or the proceeds derived from the sale of the Bonds or any other moneys which may arise out of, or in connection with, this Loan Agreement, the Indenture or the Project throughout the term of the Bonds. No provision of this Loan Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with Section 148 of the Code or the Regulations promulgated thereunder.

(b) The Borrower acknowledges that regulations of the Comptroller of the Currency grant the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Borrower hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

## ARTICLE IV

### LOAN PAYMENTS; COLLATERAL PAYMENTS AND ADDITIONAL PAYMENTS

**Section 4.01. Loan Repayment; Delivery of Note.** In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, a Loan Payment in an amount equal to the amount necessary to pay Bond Service Charges due on such Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To secure the Borrower's performance of its obligations under this Loan Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note, the Tax Certificate, the Regulatory Agreement and the Project Certificate.

So long as no Event of Default has occurred and is continuing hereunder, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be canceled by the Trustee and surrendered to the Borrower.

**Section 4.02. Collateral Payments.** In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall cause the delivery of Collateral Payments equal to the amount of the proposed disbursement by the Trustee on or before each such disbursement. All such Collateral Payments shall be paid to the Trustee for the account of the Issuer and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Any such Collateral Payment amounts shall be provided to the Trustee in writing and the Trustee shall not be responsible for computing any amounts under this Section 4.02.

**Section 4.03. Bond Fund and Collateral Fund.** The Borrower and the Issuer each acknowledge that neither the Borrower nor the Issuer has any interest in the Bond Fund or the Collateral Fund and any money deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Holders.

**Section 4.04. Additional Payments.** The Borrower shall pay as Additional Payments hereunder the following:

(a) Whether out of the proceeds of the Construction Loan to the Borrower, or other funds, all Costs of Issuance of the Bonds and all expenses incurred in closing the Construction Loan.

(b) To the Trustee, (i) the Ordinary Trustee Fees and Expenses to the extent that the funds available in the Expense Fund under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Trustee Fees and Expenses.

(c) To the Issuer, the Issuance Fee and the Issuer's Administrative Fee to the extent the funds available in the Expense Fund under the Indenture for the payment thereof are not sufficient and available therefor.

(d) To the Issuer, the Extraordinary Expenses of the Issuer.

(e) All amounts required under Section 3.06 of the Indenture in order to remarket the Bonds, and the Borrower agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such remarketing.

(f) All costs of printing any replacement Bonds required to be issued under the Indenture to the extent such costs are not paid by the Holders.

(g) To the extent not paid by the Trustee from the Expense Fund, all of the fees and expenses of the Rebate Analyst (including, but not limited to, the Rebate Analyst Fee) and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with any of the requirements imposed by the Indenture and the Tax Certificate to the extent funds available under the Indenture are not sufficient and applied therefor. The Borrower shall provide or cause to be provided all information and money (including money necessary to make deposits to the Rebate Fund required by the Tax Certificate and the fees and expenses of the Rebate Analyst to the extent available money in the Bond Fund under the Indenture are inadequate to pay such amounts) to the Trustee and the Rebate Analyst to enable the Trustee and the Rebate Analyst to comply with the Indenture and the Tax Certificate.

(h) To the Dissemination Agent, the Dissemination Agent Fee, as well as any other costs, suits, judgments, losses, damages and expenses in order to provide for compliance with the terms of the Continuing Disclosure Agreement, to the extent funds available in the Expense Fund under the Indenture are not sufficient and applied therefor.

(i) To the Remarketing Agent, the Remarketing Agent fee and any Remarketing Expenses.

Upon written notice to the Borrower, the Borrower shall transfer funds sufficient to pay such Additional Payments to the Trustee for deposit in the Expense Fund prior to the date such Additional Payments become due and payable.

If an Event of Default (or if “Event of Default” is not a defined term under any of the Borrower Documents, then a default under any provision in such document) occurs under any provision of any of the Borrower Documents and such Event of Default or default is not cured after expiration of all applicable notice and cure provisions, the Borrower shall be liable to, and upon demand shall pay to, the Issuer, the Trustee and the Construction Lender all reasonable fees and disbursements of such persons and their agents (including attorneys’ fees and expenses) which are reasonably connected therewith or incidental thereto except to the extent such fees and disbursements are paid from money available therefor under the Indenture.

Except for those Additional Payments set forth in (a) through (i) above, upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section 4.04 by any party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section 4.04 are not paid upon such demand, or upon the date such Additional Payments become due and owing for those Additional Payments described in (a) through (i) above, such Additional Payments shall bear interest from the date of such payment or the incurrence thereof or the date such Additional Payments became due and payable, as applicable, at the Interest Rate for Advances until the amount due shall have been fully paid.

Except as otherwise provided herein, the obligations of the Borrower under this Section 4.04 shall survive the termination of this Loan Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, unless and until the Borrower has transferred the Project to an unaffiliated entity with the prior written consent of the Issuer, which transferee assumes the obligations of the Borrower pursuant to this Section 4.04.

**Section 4.05. Place of Payments.** The Borrower shall make or cause to be made all Loan Payments directly to the Trustee. The Borrower shall direct the Construction Lender to make all Collateral Payments directly to the Trustee at its Designated Office. Additional Payments shall be made by the Borrower directly to the Person to whom or to which they are due.

**Section 4.06. Obligations Unconditional.** The obligations of the Borrower to make Loan Payments, Additional Payments and any payments required of the Borrower under Section 4.08 of the Indenture shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person; provided that the Borrower may contest or dispute the amount of any such obligation arising under Section 4.08 of the Indenture so long as such dispute or contest does not result in an Event of Default under the Indenture.

**Section 4.07. Assignment of Agreement and Revenues; Trustee Is Third Party Beneficiary.** To secure the payment of Bond Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Loan Agreement (except for the Reserved Rights). The Borrower hereby agrees and consents to those assignments. To the extent within its control, the Issuer shall not attempt to further assign, transfer or convey its interest in



the Revenues or this Loan Agreement or create any pledge or lien of any form or nature with respect to the Revenues, Loan Payments or Collateral Payments hereunder. The Issuer retains the right to enforce any or all of the Reserved Rights, and may take independent action to so enforce such Reserved Rights.

The Trustee shall be a third party beneficiary of this Loan Agreement.

## ARTICLE V

### ADDITIONAL AGREEMENTS AND COVENANTS

**Section 5.01. Right of Inspection.** At all reasonable times and upon reasonable notice, the Borrower shall allow any duly authorized representative of the Issuer or the Trustee to visit and inspect the Project (subject to the rights of tenants), to examine and make copies of and from its books of record and account, and to discuss its affairs, finances, and accounts with its officers, and shall furnish to the Issuer and the Trustee any information reasonably required regarding its business affairs and financial condition within a reasonable time after receipt of written request therefor.

**Section 5.02. Borrower To Maintain Its Existence; Sale of Project.** The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided, that it may do so if the surviving, resulting or transferee entity assumes in writing all of the obligations of the Borrower under the Borrower Documents and the Construction Loan Documents. The Borrower shall not take any action or allow any action to be taken to terminate the existence of the Borrower except as provided herein. Nothing herein contained shall limit the rights of (a) any direct or indirect owners of interest in the Borrower to (i) transfer, convey, sell or otherwise dispose (a "Transfer") their ownership interests to any Affiliate or in connection with any estate planning or by operation of law or (ii) make Transfers among and between themselves or (b) the Borrower to make Transfers as otherwise permitted or subject to the conditions set forth herein.

No sale, assignment or transfer of title to the Project, except as may be otherwise required by the Construction Lender, shall be made unless such sale, assignment or transfer is in compliance with the Regulatory Agreement and (a) the Construction Lender consents to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents and the Construction Loan Documents, provided that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder arising prior to such sale, assignment or transfer, and (c) no Event of Default as certified in writing to the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Loan Agreement. The Trustee shall consent to any such assignment or transfer if (i) the Construction Lender notifies it in writing that the Construction Lender has determined that the aforesaid conditions have been satisfied, (ii) the Issuer and the Trustee receives a Favorable Opinion of Bond Counsel, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by a purchaser, assignee or transferee

as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; provided, however, the Borrower shall not be released from its obligation (x) to pay or reimburse the fees and expenses of the Issuer and the Trustee incurred prior to such sale, assignment or transfer and (y) to indemnify the Trustee and the Issuer with respect to any obligation, event or action incurred or arising prior to such sale, assignment or transfer to the extent said indemnification is provided in the Borrower Documents.

Nothing contained in this Section 5.02 shall be construed to supersede any provisions regarding assignment and transfer of the Project or the existence of the Borrower contained in the Construction Loan Documents or the Regulatory Agreement.

Notwithstanding anything to the contrary herein, it shall not be an Event of Default for the Investor Limited Partner to transfer its limited partner interest in the Borrower without the Issuer or the Trustee's consent nor for the Investor Limited Partner to remove the Borrower's General Partner in accordance with the Regulatory Agreement and the terms of conditions of the Borrower's Organizational Documents in effect from time to time.

**Section 5.03. Indemnification.** To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Issuer Indemnified Persons regardless of whether the Borrower is negligent and the Trustee Indemnified Persons (collectively, the "Indemnified Parties"), against any and all actual fees, costs and charges, losses, damages, demands, claims, judgments, causes of action, suits, taxes (other than income taxes payable by any party as a result of any fees payable to such party in connection with the transaction contemplated hereby), liabilities and expenses of any conceivable nature, kind or character (including, without limitation, reasonable fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(a) the Bonds, the Indenture, this Loan Agreement or the other Borrower Documents or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, remarketing, sale or resale of the Bonds (subject to the nonrecourse provisions of the Loan);

(b) the performance and observance by or on behalf of the Issuer of those things on the part of the Issuer agreed to be performed or observed hereunder and under the Indenture, the Tax Certificate and the Regulatory Agreement;

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

(d) any lien or charge upon payments by the Borrower to the Issuer and the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and

sales taxes), assessments, impositions and other charges imposed on the Issuer or the Trustee in respect of any portion of the Project;

(e) any violation of any environmental regulations with respect to, or the release of any hazardous substances from, the Project or any part thereof;

(f) the defeasance and/or redemption, in whole or in part, of the Bonds;

(g) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in the Official Statement (except with respect to information contained in the sections of the Official Statement entitled “THE ISSUER” or “ABSENCE OF LITIGATION—The Issuer”) or any other offering or disclosure document or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from the Official Statement (except with respect to information contained in the sections of the Official Statement entitled “THE ISSUER” or “ABSENCE OF LITIGATION—The Issuer”) or any other offering or disclosure document or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(h) any declaration of taxability of interest on the Bonds, or allegations that interest on the Bonds is taxable or any regulatory audit or inquiry regarding whether interest in the Bonds is taxable; provided, however, that this subsection (h) shall not apply if interest on the Bonds is treated as includable in gross income of the Holder solely because the Holder is a “substantial user” or “related person” to such a substantial user within the meaning of Section 147(a) of the Code;

(i) the Trustee’s acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party; or

(j) any injury to or death of any Person or damage to property in or upon the Project or growing out of or connected with the use, nonuse, condition or occupancy of the Project;

except to the extent such damages are caused by (i) a Trustee Indemnified Person by its own negligence or willful misconduct or breach of a Trustee Indemnified Person’s obligations under any Financing Documents or the (ii) fraud or willful misconduct of an Issuer Indemnified Person.

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 reasonable 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; provided, however, that the failure to give such written notice shall not discharge the Borrower’s obligations under this Section 5.03. 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 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 and provided further that the Borrower shall not be obligated to pay for more than one separate counsel fee for all Issuer Indemnified Persons and one separate counsel fee for all Trustee Indemnified Persons.

The rights of any Persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses shall remain valid and in effect and shall survive the final payment, redemption or defeasance of the Bonds, repayment of the Loan or payment or termination of this Loan Agreement or the Indenture, and in the case of the Trustee, any resignation or removal of the Trustee.

Any provision of this Loan Agreement or any other instrument or document executed and delivered in connection therewith to the contrary notwithstanding, the Issuer retains the right to (i) enforce any applicable federal or State law or regulation of the Issuer and (ii) enforce any rights accorded to the Issuer by federal or State law or regulation of the Issuer, and nothing in this Loan Agreement shall be construed as an express or implied waiver thereof. The indemnifications provided by the Borrower shall survive the termination of this Loan Agreement, satisfaction of the Note, and the resignation or removal of the Trustee.

The Borrower understands and agrees that the foregoing release includes all claims of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, and the Borrower has read and understands and hereby waives the benefits of Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

Nothing in this Section 5.03 shall in any way limit the Borrower’s indemnification and other payment obligations set forth in the Regulatory Agreement.

#### **Section 5.04. Tax Matters.**

(a) ***Representations and Covenants.*** The Borrower represents, warrants and covenants as follows:

(i) The Borrower will not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the Federal Tax Status of the Bonds. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Certificate, which is incorporated herein as if set forth fully herein.

(ii) The Borrower will, on a timely basis, provide the Issuer with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Certificate) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Issuer to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Trustee as are required of it under the Tax Certificate. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture and this Loan Agreement.

(iii) Neither the Borrower nor any "related party," within the meaning of Section 1.150-1(b) of the Regulations, to the Borrower shall be permitted to purchase any Bonds in an amount related to the Loan.

(b) **Continuing Compliance.** The requirements stated in this Section 5.04 will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion from gross income of interest on the Bonds for federal income tax purposes.

#### **Section 5.05. Affirmative Covenants.**

(a) **Maintenance of Project.** The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to the Project.

(b) **Keeping of Records and Books of Account.** The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with the requirements of the Construction Loan Documents or indicating deviations therefrom, reflecting all financial transactions.

(c) **Payment of Taxes, Etc.** The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other Governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a lien upon its properties; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any lien existing at any time upon any of its properties; provided, however, that the Borrower shall not be required to pay any of the foregoing if (i) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (ii) the Borrower shall have set aside on its books adequate reserves with respect thereto and (iii) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby.

(d) **Insurance.** The Borrower shall at all times maintain or cause to be maintained insurance of such types and in such amounts as may be required by the Construction Loan Documents.

(e) **Notice of Material Litigation.** The Borrower shall promptly notify the Issuer in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it hereafter becomes a party or be subject to which involves any material risk of any material judgment or liability (unless fully covered by insurance) or which may otherwise result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the Borrower or which materially impairs the ability of the Borrower to perform the Borrower Documents, or any other agreement or instrument herein or therein contemplated.

(f) **Notice of Default.** In the event that any Event of Default occurs, the Borrower shall give prompt notice in writing of such happening to the Trustee and the Issuer upon the Borrower obtaining knowledge of such Event of Default.

(g) **Performance of Contracts, Etc.** Except to the extent contested in good faith, the Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower on an individual basis or would materially impair the ability of the Borrower to perform this Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(h) **Notice of Other Matters.** The Borrower shall promptly notify the Issuer in writing of any of the following events:

(i) Any material change with respect to the business, assets, liabilities, financial condition or results of operations of the Borrower other than changes in the ordinary course of business the effects of which impair the ability of the Borrower to perform its obligations under this Loan Agreement, the Regulatory Agreement, or the Note or any other agreement or instrument herein or therein contemplated.

(ii) A default by the Borrower in any material respect under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(i) **Cooperation in Perfecting Security Interests, Etc.** The Borrower shall promptly perform, following request by the Trustee, such acts as may be necessary or advisable to perfect and maintain any lien provided for in this Loan Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Loan Agreement. The Trustee shall not be responsible for the initial filing of financing statements.

(j) ***Environmental Matters.*** The Borrower will take and continue to take prompt action to remedy all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems on the Project site or related to the Project, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

(k) ***Patriot Act.*** The Borrower covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to comply with the requirements of the Patriot Act as described in Section 11.10 of the Indenture.

#### **Section 5.06. Negative Covenants.**

(a) ***Non-discrimination.*** The Borrower will not itself and will not permit any contractors, subcontractors and commercial tenants of the Project to discriminate by reason of race, color, creed, handicap, national origin or sex in the employment of any Person employed by it in connection with the Project or working in or on the Project. The Borrower will require each manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of age, race, color, creed, handicap, national origin, sex, marital status, sexual orientation or gender identity, and will not discriminate against persons with minor dependents.

(b) ***Nature of Business.*** The Borrower will not change the general character of its business as contemplated to be conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

**Section 5.07. Continuing Disclosure.** The Borrower hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement and acknowledges and agrees that it and not the Issuer shall have the sole obligation for providing continuing disclosure pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Notwithstanding any other provision of this Loan Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture or a default with respect to the Bonds or the Construction Loan Documents.

**Section 5.08. Reliance.** It is expressly understood and agreed by the parties to this Loan Agreement that: (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to it by the Trustee, any Holder or the Borrower as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer; (b) the Issuer shall not be under any obligation to perform any recordkeeping or to provide any legal service, it being understood that such services shall be performed by the Trustee or the Borrower; and (c) none of the provisions of this Loan Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Bonds issued under this Indenture) or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights under this Loan Agreement unless it first shall have been adequately indemnified to

its satisfaction against the costs, expenses and liabilities which may be incurred by taking such action.

**Section 5.09. Allocation and Use of Proceeds to Eligible Costs.** Notwithstanding anything to the contrary set forth in any of the documents evidencing or securing the Bonds (other than the Tax Certificate), all of the proceeds of the Bonds shall, for federal income tax purposes, be (a) allocated using the same method used to determine whether 95% of the Bond proceeds have been spent on Qualified Project Costs to each building in the Project and the land on which it is located, and (b) used exclusively to pay costs of the construction of the Project which are includable in the aggregate basis of any building and the land on which the building is located (“Eligible Costs”) in a manner such that each building satisfies the requirements of Section 42(h)(4)(B) of the Code. Accordingly, no more than 2% of the proceeds of the Bonds will be deemed to have been used to pay any of the costs of issuance in connection with the delivery of the Bonds, or to fund any reserve account other to be used to pay Eligible Costs.

**Section 5.10. Reporting Requirements of the Borrower.** The Borrower will furnish to the Issuer and agencies of the State such periodic reports or statements as are required under the Act, or as such agencies may otherwise reasonably require of the Issuer or Borrower throughout the term of this Loan Agreement.

**Section 5.11. Qualified Tenants; Maximum Allowable Rents.** During the Qualified Project Period (as such term is defined in the Regulatory Agreement), the Borrower hereby represents, covenants and agrees that Low Income Tenants (as defined in the Regulatory Agreement) shall occupy at least 40% of the units in the Project and Very Low Income Tenants (as defined in the Regulatory Agreement) shall occupy at least 10% of all units in the Project. The Borrower agrees that the provisions of this Section 5.11 shall remain in full force and effect for the Qualified Project Period (as defined in the Regulatory Agreement).

**Section 5.12. [Reserved].**

**Section 5.13. Regulatory Agreement.** In order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and to ensure compliance with the Act and other laws of the State, and certain additional requirements of the Issuer, the Borrower has, concurrently with or before the execution and delivery of the Bonds, executed and delivered and will cause to be recorded in the official records of the County, the Regulatory Agreement. The Borrower covenants to observe and perform its obligations under the Regulatory Agreement and will cause the residential units in the Project to be, upon completion of the construction of the Project, rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases which comply with all applicable laws and the Regulatory Agreement. The Project, when constructed, will meet the requirements of this Loan Agreement and the Regulatory Agreement and any applicable requirements of the Act and the Code.

The Borrower covenants to file, or cause to be filed, of record the Regulatory Agreement and such other documents and take such other steps as are necessary in order to ensure that the restrictions contained in the Regulatory Agreement will, subject to the terms of the Regulatory Agreement, be binding upon all owners of the Project. The Borrower covenants to include such



restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has notice of, and is bound by, such restrictions.

## ARTICLE VI

### PREPAYMENT AND REMARKETING

**Section 6.01. Prepayment.** The Loan is subject to optional prepayment by the Borrower according to the same terms and conditions of the Bonds set forth in Section 3.01 of the Indenture.

**Section 6.02. Remarketing of Bonds.** The Borrower is hereby granted the right to (a) give notice of a remarketing of the Bonds in the manner and to the extent set forth in the Indenture, and (b) designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in the Indenture.

**Section 6.03. Borrower's Obligations Upon Tender of Bonds.** If any Unredeemed Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Special Funds for the purpose of paying the redemption price of the Bonds pursuant to the Indenture, the Borrower will cause to be paid to the Trustee as set forth in the Indenture Eligible Funds equal to the amount by which the redemption price of the Bonds exceeds the amount otherwise available pursuant to the Indenture.

**Section 6.04. Option To Terminate.** The Borrower shall have the option to cancel or terminate this Loan Agreement at any time when the Indenture shall have been released in accordance with its provisions. Such option shall be exercised by the Authorized Borrower Representative, on behalf of the Borrower, giving the Issuer and the Trustee at least five days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this Section 6.04 shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** Each of the following shall be an Event of Default hereunder:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts credited as paid and/or transferred from the Collateral Fund and the Project Fund, are insufficient to pay the Bond Service Charges due on such date;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Loan Agreement and the continuation of such failure for a period of 30 days after written notice thereof shall have been given to the Borrower by the Issuer or the Trustee, or for such longer period as the Issuer (with respect to the Reserved Rights) and the Trustee may, pursuant to the written direction of the Controlling Holders, agree to in writing; provided, that if the failure is other than the payment of money and is

of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for 90 days; (iv) make a general assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Loan Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an “Event of Default” as defined in the Indenture.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrower shall not be deemed in default (or that an Event of Default is occurring) during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term Force Majeure shall mean, without limitation, the following: (i) acts of God; a prohibition by applicable law from performance during a pandemic; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; or partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or (ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal or state bankruptcy, insolvency, reorganization or similar law affecting or precluding that declaration

or exercise during the pendency of or immediately following any bankruptcy, insolvency, liquidation or reorganization proceedings.

**Section 7.02. Remedies on Default.** Whenever an Event of Default shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 6.03 of the Indenture, the Trustee shall declare all Loan Payments to be due and payable together with any other amounts payable by the Borrower under this Loan Agreement and the Note, whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in this Loan Agreement or any other Financing Document;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or

(d) The Issuer (with respect to the Reserved Rights) or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Loan Agreement, the Tax Certificate and the Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the foregoing, neither the Issuer nor the Trustee shall be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until satisfactory indemnity has been furnished to the Issuer or the Trustee at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this Section 7.02 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 4.14 of the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this Section 7.02 are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section 7.02 and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Notwithstanding anything in this Loan Agreement to the contrary, the Issuer shall have the right to independently enforce the Reserved Rights and shall not be required to obtain the consent of the Trustee, the Holders or any other person or entity in order to enforce any of the Reserved Rights.

**Section 7.03. No Remedy Exclusive.** No remedy conferred upon or reserved to the Issuer or the Trustee by this Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

**Section 7.04. Agreement To Pay Attorneys' Fees and Expenses.** If an Event of Default should occur and the Issuer or the Trustee should incur expenses, including court costs and reasonable attorneys' fees and expenses, in connection with the enforcement of this Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note or the collection of sums due thereunder, the Borrower shall reimburse the Issuer and the Trustee, as applicable, for the reasonable expenses so incurred upon demand.

**Section 7.05. No Waiver.** No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

**Section 7.06. Notice of Default.** The Borrower shall give written notice to the Trustee, the Issuer and the Investor Limited Partner immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

**Section 7.07. Investor Limited Partner's Cure Rights.** Notwithstanding anything to the contrary in the Financing Documents, upon the occurrence of an Event of Default that cannot otherwise be cured, the Investor Limited Partner shall have the option, but not the obligation, to cure that Event of Default itself or by appointing a substitute or additional General Partner that is an affiliate of the Investor Limited Partner to act as such General Partner pursuant to and to the extent permitted by the terms of the Borrower's Organizational Documents. The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be cured by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Term of Agreement.** This Loan Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Holder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture and all other sums payable by the Borrower under this Loan Agreement and the Note shall have

been paid, except for obligations of the Borrower under Sections 4.04, 5.03 and 5.04 hereof, which shall survive any termination of this Loan Agreement as provided herein and the resignation or removal of the Trustee.

**Section 8.02. Amounts Remaining in Funds.** Any amounts remaining in the Bond Fund, the Project Fund and the Collateral Fund after all of the outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Loan Agreement, the Note and the Indenture have been paid, shall be paid as provided in Section 4.14 of the Indenture.

**Section 8.03. Notices.** All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Borrower, the Investor Limited Partner, the Construction Lender or the Trustee shall also be given to the others. The Borrower, the Issuer, the Construction Lender, the Investor Limited Partner and the Trustee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

**Section 8.04. Certain Provisions Required by the Issuer.**

(a) All obligations of the Issuer incurred under this Loan Agreement, the Regulatory Agreement and the Indenture shall be limited obligations of the Issuer, payable solely and only from Bond proceeds, Revenues and other amounts derived by the Issuer from the Trust Estate. The Bonds shall be payable solely from the Revenues and other funds and property pledged under the Indenture for the payment of the Bonds, and no owner or owners of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the State, the County, or any other political subdivision or public body of the State, or to enforce the payment of the Bonds against any property of the Issuer, the State, the County, or any other political subdivision or public body, including the Issuer, except as provided in the Indenture. No director, officer, officials, agent, employee, counsel, or attorney or member of the Issuer or the County, past, present and future, including any person executing this Loan Agreement on behalf of the Issuer, shall be liable personally under this Loan Agreement or for any reason relating to the issuance of the Bonds. No recourse shall be had for the payment of the principal of or the interest on the Bonds, or for any claim based on the Bonds, or otherwise in respect of the Bonds, or based on or in respect of this Loan Agreement or any amendment to this Loan Agreement, against any director, officer, official, agent, employee, counsel, attorney or member of the Issuer, the County, 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 Loan Agreement and as part of the consideration for the issue of the Bonds, expressly waived and released.

(b) It is expressly understood and agreed by the parties to this Loan Agreement that:

(i) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Bondholder or the Borrower as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer;

(ii) the Issuer shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Borrower or such other appropriate party; and

(iii) none of the provisions of this Loan Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Bonds issued under the Indenture) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Loan Agreement unless it first shall have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

(c) No provision, representation, covenant or agreement contained in this Loan Agreement or in the Indenture, the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability (except to the extent of any loan repayments, revenues and receipts derived by the Issuer pursuant to this Loan Agreement and other moneys held pursuant to the Indenture, other than in the Rebate Fund, the Construction Loan Repayment Fund, and the Expense Fund). No provision hereof shall be construed to impose a charge against the general credit of the Issuer, the State, the County, or any other political subdivision or public body of the State, the taxing powers of the foregoing, within the meaning of any constitutional provision or statutory limitation, or any personal or pecuniary liability upon any member, director, officer, official, agent or employee of the Issuer or the County.

(d) All covenants, obligations and agreements of the Issuer contained in this Loan Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any past, present or future director, officer, official, agent or employee of the Issuer in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Loan Agreement or in the Indenture. No provision, covenant or agreement contained in this Loan Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Loan Agreement or in any Bonds or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in

connection with the Project or the issuance and sale of the Bonds, against any member of the Governing Body of the Issuer, its officers, officials, attorneys, employees, counsel, financial advisor, or agents, as such, in his or her individual capacity, past, present, or future, or of any successor thereto, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any member of the Governing Body, officials, attorneys, employees, officers, counsel, financial advisors, or agents, as such, in his or her individual capacity, past, present, or future, of the Issuer or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Trustee or the Borrower to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such director, official, attorney, employee, officer, counsel, financial advisor, or agent, is, by the execution of the Bonds, this Loan Agreement, and the Indenture, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Loan Agreement, and the Indenture, expressly waived and released.

**Section 8.05. Limited Liability of Borrower.** Anything in this Loan Agreement to the contrary notwithstanding, the monetary obligations of the Borrower contained in this Loan Agreement (except for fees, payments and indemnification under Sections 4.04, 5.03 and 7.04 hereof) shall be limited obligations payable solely from the income and assets of the Project and neither the Borrower nor partner, manager, member, director, official or officer of the Borrower shall have any personal liability for the satisfaction of any obligation of the Borrower or claim against the Borrower, arising out of this Loan Agreement.

**Section 8.06. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower, the Trustee and their respective permitted successors and assigns provided that this Loan Agreement may not be assigned by the Borrower (except in connection with a sale or transfer of assets pursuant to Section 5.02 hereof) and may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Service Charges. This Loan Agreement may be enforced only by the parties, their permitted assignees and others who may, by law, stand in their respective places.

**Section 8.07. Amendments and Supplements.** Except as otherwise expressly provided in this Loan Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, this Loan Agreement, the Tax Certificate, the Regulatory Agreement and the Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article X of the Indenture, as applicable.

**Section 8.08. Execution Counterparts.** This Loan Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

**Section 8.09. Severability.** If any provision of this Loan Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable,

that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 8.10. Governing Law.** This Loan Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**Section 8.11. Nonrecourse Obligations.** Notwithstanding anything to the contrary set forth herein, in the Note and in any other document delivered in connection herewith, it is hereby expressly agreed and understood that the obligations of the Borrower hereunder, under the Note and under every document executed and delivered in connection herewith, are nonrecourse. Neither the Borrower nor any member, partner, officer, director or employee of the Borrower (each, a “Related Party”) shall have any personal liability for the repayment of the Loan. In furtherance thereof, the Issuer and the Trustee shall be entitled to look solely and exclusively to the Revenues, the Project and any income derived therefrom for the payment and other obligations of the Borrower hereunder, under the Note and all evidences of indebtedness secured hereby, and shall not seek a personal judgment against any member, partner, officer, director, member or stockholder of the Borrower, provided that nothing herein shall relieve any such Related Party from liability for any of the following:

- (a) rent collected for more than one month in advance and received by a Related Party and not applied to the reasonable operating requirements of the Project;
- (b) misappropriation or misapplication by a Related Party of insurance or eminent domain proceeds in violation of the Construction Loan Documents;
- (c) fraud or material misrepresentation by a Related Party against the Issuer or the Holder;
- (d) conversion by a Related Party of all or a material portion of the Project; or
- (e) gross negligence, willful misconduct or intentional torts of a Related Party relating to the Project or the revenues therefrom.

**Section 8.12. Survival of Provisions.** The provisions of this Loan Agreement and the Indenture and any other document in connection with the issuance of the Bonds to which the Issuer is a party concerning: (a) the tax-exempt status of the Bonds; (b) the interpretation of this Loan Agreement; (c) governing law; (d) the Issuer’s right to rely on written representations of others contained herein or in any other document, regardless of whether the Issuer is a party thereto; (e) the immunity, right to indemnification and lack of pecuniary liability of the Issuer Indemnified Persons; and (f) any other provision of this Loan Agreement not described or enumerated above that expressly provides for its survival, shall survive and remain in full force and effect



notwithstanding the payment or redemption in full, or defeasance of the Bonds, the discharge of the Indenture, and the termination or expiration of this Loan Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

Dawyn R. Harrison, Acting County Counsel

\_\_\_\_\_  
Deputy

[Signature Page to VA Building 402 Loan Agreement]

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

[Signature Page to VA Building 402 Loan Agreement]

**EXHIBIT A**  
**FORM OF NOTE**

*This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Indenture and the Loan Agreement referred to herein.*

\$33,755,000.00

[\_\_\_\_\_], 2022

VA BUILDING 402 LP, a California limited partnership (the “Borrower”), for value received, promises to pay in installments to U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as trustee (the “Trustee”) under the Indenture hereinafter referred to, the principal amount of THIRTY-THREE MILLION SEVEN HUNDRED FIFTY-FIVE THOUSAND AND 00/100 DOLLARS (\$33,755,000.00) and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate of [\_\_\_\_\_] % per annum, to but not including the Mandatory Tender Date, and at the Remarketing Rate from and after the Mandatory Tender Date until the payment of such principal sum has been made or provided for. The principal amount stated above shall be paid on or before [\_\_\_\_\_]. Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid on (a) [\_\_\_\_\_] 1 and [\_\_\_\_\_] 1 of each year, commencing [\_\_\_\_\_], (b) each Redemption Date, (c) each Mandatory Tender Date, and (d) the date of acceleration of the Bonds (the “Interest Payment Dates”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the hereinafter defined Indenture.

This Note has been executed and delivered by the Borrower to the Trustee, as assignee of the Issuer, pursuant to a certain Loan Agreement dated as of [November] 1, 2022 (the “Loan Agreement”), between the Los Angeles County Development Authority (the “Issuer”) and the Borrower.

Under the Loan Agreement, the Issuer has loaned the Borrower the principal proceeds received from the sale of the Issuer’s \$33,755,000 Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F (the “Bonds”) to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments (“Loan Payments”) at the times and in the amounts set forth in this Note for application to the payment of Bond Service Charges on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture dated as of [November] 1, 2022 (the “Indenture”), between the Issuer and the Trustee.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments on each Interest Payment Date in an amount equal to the Bond Service Charges on the Bonds payable on such Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments on any other date on which any Bond Service Charges on the Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Service Charges on the Bonds from money other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund to pay Bond Service Charges. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its designated corporate trust office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Service Charges on the Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person.

This Note is subject to prepayment, in whole or in part, upon the terms and conditions set forth in Article VI of the Loan Agreement. Any prepayment is subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Loan Agreement or the Indenture.

Whenever an Event of Default under Section 6.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 6.03 of the Indenture, the unpaid principal amount of and accrued interest on this Note shall also be due and payable on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Sections 8.05 and 8.11 of the Loan Agreement.

The Borrower, the Trustee and the Issuer acknowledge that this Note, and all Borrower's obligations hereunder, are subject and subordinate to the Construction Loan Documents. In addition, (1) the indebtedness evidenced by this Note and all other documents evidencing or securing this Note (collectively, the "Bond Loan Documents") are and shall be subordinated in right of payment, to the prior payment in full of the indebtedness evidenced by the Construction Loan Documents, and (2) the Bond Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Construction Loan Documents and to all advances heretofore made or which may hereafter be made.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

**ENDORSEMENT**

Pay to the order of U.S. Bank Trust Company, National Association, a national banking association, without recourse, as Trustee under the Indenture referred to in the Note, as security for the Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Dated: \_\_\_\_\_, 20\_\_\_\_

## EXHIBIT B

### FORM OF DISBURSEMENT REQUEST

STATEMENT NO. \_\_\_\_\_ REQUESTING DISBURSEMENT OF FUNDS FROM  
PROJECT FUND PURSUANT TO SECTION 3.06 OF THE LOAN AGREEMENT

Pursuant to Section 3.06 of the Loan Agreement dated as of [November] 1, 2022 (the “Loan Agreement”) between the Los Angeles County Development Authority (the “Issuer”) and VA Building 402 LP, a California limited partnership (the “Borrower”), the undersigned Authorized Borrower Representative hereby requests and authorizes U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as trustee (the “Trustee”), as depository of the Project Fund created by the Trust Indenture dated as of [November] 1, 2022 (the “Indenture”), between the Issuer and the Trustee, to pay [to the Borrower] [to [Wells Fargo Bank, National Association], as Construction Lender] [or to the Person(s) listed on the Disbursement Schedule hereto] out of the money deposited in the Project Fund the aggregate sum of \$\_\_\_\_\_ to pay the costs of the items listed in the Disbursement Schedule. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture and in the Tax Certificate.

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

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

(b) Each such item is or was incurred in connection with the acquisition, construction, installation, equipment or improvement of the Project.

(c) The Borrower has received, or will concurrently with payment receive and deliver to the Trustee, appropriate waivers of any mechanics’ or other liens with respect to each item for which disbursement is requested hereunder.

(d) After taking into account the proposed disbursement,

(i) no more than 5% of the Net Proceeds of the Bonds will have been used for costs that are not Qualified Project Costs;

(ii) less than 25% of the Net Proceeds of the Bonds will have been used for the cost of acquiring land; and

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

(e) There is no current or existing default or event of default pursuant to the terms of the Loan Agreement, the Regulatory Agreement or the Tax Certificate and no



event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(f) There are no liens on the Project except Permitted Liens and those permitted or provided for by the Loan Agreement.

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

[Remainder of page intentionally left blank]

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

APPROVED:

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

**DISBURSEMENT SCHEDULE**

TO STATEMENT NO. \_\_\_\_\_ REQUESTING AND AUTHORIZING  
DISBURSEMENT OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 3.06 OF  
THE LOAN AGREEMENT

**EXHIBIT C**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS)  
2022 SERIES F**

**COMPLETION CERTIFICATE**

Pursuant to Section 3.08 of the Loan Agreement dated as of [November] 1, 2022 (the “Loan Agreement”) between the LOS ANGELES COUNTY DEVELOPMENT AUTHORITY (the “Issuer”) and VA BUILDING 402 LP, a California limited partnership (the “Borrower”), and relating to the above-captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings ascribed thereto in the Loan Agreement):

- (a) The Project was substantially completed and available and suitable for use as multifamily housing on \_\_\_\_\_.
- (b) The acquisition, construction, equipping and improvement of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.
- (c) The costs of the Project financed with the Loan were \$\_\_\_\_\_.
- (d) At least 95% of the proceeds of the Bonds were expended for Qualified Project Costs or remain unspent and will be applied to the redemption of the Bonds.
- (e) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

**EXHIBIT D**  
**SOURCES AND USES OF FUNDS**

[To be provided]

## **PURCHASE CONTRACT**

**\$33,755,000**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

Los Angeles County Development Authority  
700 West Main Street  
Alhambra, California 91801

VA Building 402 LP  
c/o Thomas Safran & Associates  
11811 San Vicente Boulevard  
Los Angeles, California 90049

\_\_\_\_\_, 2022

Dear Ladies and Gentlemen:

Wells Fargo Bank, National Association (the “Underwriter”), on its own behalf and not as your agent or fiduciary, offers to enter into this Purchase Contract with the Los Angeles County Development Authority (the “Issuer”) and VA Building 402 LP, a California limited partnership (the “Borrower”). Wells Fargo Bank, National Association represents and warrants to the Issuer and the Borrower that it has been duly authorized to execute this Purchase Contract for and on behalf the Underwriter and to take such actions it may deem advisable with respect to all matters pertaining to this Purchase Contract.

The Issuer is authorized to issue the above-captioned bonds (the “Bonds”), pursuant to the laws of the State of California (the “State”) and in particular in accordance with (a) Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as supplemented and amended (the “Act”), (b) a resolution adopted by the Issuer on \_\_\_\_\_, 2022 (the “Bond Resolution”), and (c) a Trust Indenture, dated as of November 1, 2022 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association as trustee (the “Trustee”). The Bonds will mature on the date and in the amount, will be subject to mandatory tender on the date and will bear interest at the rate shown on Schedule I hereto and will be subject to redemption and have such other terms as set forth in the Indenture and as described in the Official Statement (as hereinafter defined). The proceeds of the Bonds will be used to finance a loan (the “Loan”) to the Borrower to provide for the acquisition, construction and equipping of an affordable rental housing project known as West Los Angeles VA Campus Building 402 Apartments located in Los Angeles, California (the “Project”).

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture or the Loan Agreement (as hereinafter defined).

Section 1. Purchase, Sale and Delivery of Bonds. On the basis of the representations, warranties and agreements contained herein, but subject to the terms and conditions herein set forth, the Underwriter shall purchase the Bonds from the Issuer, and the Issuer agrees to sell to the Underwriter, all, but not less than all, of the Bonds at a purchase price equal to the principal amount of the Bonds[, plus the amount set forth in the Closing Memorandum (the “Closing Memorandum”) prepared by the Underwriter prior to the Closing Date (as defined below) for deposit to the Negative Arbitrage Account of the Bond Fund (the “Underwriter’s Advance”)]. For its services hereunder, the Underwriter shall receive a fee equal to \$\_\_\_\_\_ plus \$\_\_\_\_\_ for certain fees and expenses (the “Underwriting Fee”) payable in immediately available funds on the Closing Date, solely and exclusively from funds provided by the Borrower. The Borrower acknowledges that a portion of the Underwriting Fee will pay or reimburse the Underwriter for various expenses incurred by the Underwriter including, but not limited to, meals, transportation and lodging, if any, and any other miscellaneous reasonable Closing costs, which are incidental to implementing this Purchase Contract and the issuance and purchase of the Bonds. The Borrower agrees to pay the Underwriter the Underwriting Fee. [In addition, the Borrower agrees to pay the Underwriter in the amount set forth in the Closing Memorandum to reimburse the Underwriter for the Underwriter’s Advance deposited to the Negative Arbitrage Account of the Bond Fund as set forth above.] The Underwriting Fee will not include the reasonable fees and expenses of the Underwriter’s counsel.

The Issuer shall deliver the Bonds to the order of the Underwriter for the account of the Underwriter against payment of the purchase price therefor by wire transfer payable in immediately available funds at the office of the Trustee on \_\_\_\_\_, 2022, or at such other time and place not later than seven business days thereafter as the Underwriter shall determine and advise the Issuer and the Borrower (the “Closing Date”). One Bond will be delivered, registered in the name of Cede & Co., to the Trustee as agent for The Depository Trust Company (“DTC”) on or prior to the Closing Date.

The Issuer and the Borrower each acknowledge that in connection with the purchase and sale of the Bonds, the offering of the Bonds for sale and the discussions and negotiations relating to the terms of the Bonds pursuant to and as set forth in this Purchase Contract that (a) the primary role of the Underwriter is to purchase the Bonds from the Issuer for resale to investors, (b) the Underwriter has acted at arm’s length, is acting solely as principal for its own account and is not agent of or advisor (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)) and owes no fiduciary duty to, the Issuer, the Borrower or any other person, (c) the Underwriter’s duties and obligations to the Issuer and the Borrower shall be limited to those contractual duties and obligations set forth in this Purchase Contract, (d) the Underwriter may have interests that differ from those of the Issuer and the Borrower and (e) the Issuer and the Borrower have consulted their legal and financial advisors to the extent they deemed appropriate in connection with the offering and sale of the Bonds. The Issuer and the Borrower further acknowledge and agree that each is responsible for making its respective judgment with respect to the offering and sale of the Bonds and the process leading thereto. The Issuer and the Borrower each agrees that it will not claim that the Underwriter acted as a Municipal Advisor to the Issuer or the Borrower or rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Issuer or the Borrower, in connection with the offering or sale of the Bonds or the process leading thereto.



Section 2. Financing Documents. On or prior to the Closing Date, the Underwriter shall have received copies of the following:

(a) the Official Statement relating to the Bonds (the “Official Statement”), certified by an authorized officer of the Borrower as a “final Official Statement” within the meaning of Rule 15c2-12(f)(3) of the Securities Exchange Act of 1934, as amended (the “1934 Act”);

(b) the Indenture;

(c) the Loan Agreement dated as of November 1, 2022 (the “Loan Agreement”), relating to the Bonds, duly executed by the Issuer and the Borrower;

(d) the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2022 (the “Regulatory Agreement”), among the Issuer, the Borrower and the Trustee;

(e) the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986, between the Issuer and the Borrower, dated as of the Closing Date;

(f) the Continuing Disclosure Agreement dated as of November 1, 2022, among the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent;

(g) this Purchase Contract;

(h) the promissory note dated the Closing Date (the “Note”), evidencing the obligation of the Borrower to make Loan Payments, duly executed by the Borrower;

(i) the Remarketing Agreement dated as of November 1, 2022, between the Borrower and Wells Fargo Bank, National Association, as remarketing agent; and

(j) the Bond Resolution.

The documents listed in (b), (c), (d), (e), (g) and (j) above are referred to collectively as the “Issuer Documents.”

The documents listed in (a), (c), (d), (e), (f), (g), (h) and (i) above are referred to collectively as the “Borrower Documents.”

The documents listed in (a) through (j) above are referred to collectively as the “Financing Documents.”

The Official Statement shall be provided for distribution, at the expense of the Borrower, in such quantity as may be requested by the Underwriter no later than the earlier of (i) seven (7) business days after the date of this Purchase Contract or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriter to comply with Rule 15c2-12 of the Securities and Exchange Commission (“SEC”), and the applicable rules of the Municipal Securities Rulemaking Board (the “MSRB”), with respect to distribution of the Official Statement. The

Borrower shall prepare the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB's Rule G-32 and shall provide the electronic copy of the word-searchable PDF format of the Official Statement to the Underwriter no later than one (1) business day prior to the Closing Date to enable the Underwriter to comply with MSRB Rule G-32.

The Issuer and the Borrower have authorized the use of the Official Statement in connection with the offer, sale and distribution of the Bonds. The Issuer and the Borrower confirm that they have heretofore made available to the Underwriter copies of a Preliminary Official Statement of the Issuer, dated \_\_\_\_\_, 2022, relating to the Bonds (the "Preliminary Official Statement"), and the Issuer and the Borrower have authorized the distribution thereof to prospective purchasers and investors. The Borrower hereby represents pursuant to the form of certificate attached as Exhibit E hereto to the Underwriter that the Preliminary Official Statement was "final" within the meaning of Rule 15c2-12(b) under the 1934 Act, except for the omission of the offering prices, interest rates, principal amounts, delivery dates, ratings, sources and uses of funds and other terms of the Bonds dependent on such matters.

Section 3. Offering of Bonds and Issue Price Certificate. The Underwriter hereby agrees that:

(a) The Underwriter agrees to assist the Issuer in establishing the issue price of the Bonds and shall execute and deliver to the Issuer on the Closing Date an "issue price" or similar certificate substantially in the form attached hereto as Exhibit F, together with the supporting pricing wires or equivalent communications, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Issuer and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds. As applicable, all actions to be taken by the Issuer under this section to establish the issue price of the Bonds may be taken on behalf of the Issuer by the Issuer's municipal advisor and any notice or report to be provided to the Issuer may be provided to the Issuer's municipal advisor.

(b) Except as otherwise set forth in Schedule I hereto, the Issuer will treat the first price at which 10% of each maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Purchase Contract, the Underwriter shall report to the Issuer the price or prices at which it has sold to the public each maturity of Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Bonds, the Underwriter agrees to promptly report to the Issuer the prices at which it sells the unsold Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold to the public.

(c) The Underwriter confirms that it has offered the Bonds to the public on or before the date of this Purchase Contract at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth in Schedule I hereto, except as otherwise set forth therein. Schedule I also sets forth, as of the date of this Purchase Contract, the maturities, if any,

of the Bonds for which the 10% test has not been satisfied and for which the Issuer and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the Issuer to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (i) the close of the fifth (5th) business day after the sale date; or
- (ii) the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the Issuer when it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

(d) The Underwriter confirms that any selling group agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter. The Issuer acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, if applicable, as set forth in a selling group agreement and the related pricing wires. The Issuer further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

(e) The Underwriter acknowledges that sales of any Bonds to any person that is a related party to an Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

- (i) “public” means any person other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling

group or a party to a third party distribution agreement participating in the initial sale of the Bonds to the public),

(iii) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Purchase Contract by all parties.

Section 4. Representations and Warranties of the Issuer. The Issuer represents and warrants to the parties hereto as follows:

(a) The Issuer is a public body, corporate and politic organized and existing under the laws of the State of California (the “State”), with full legal right, power and authority (i) to enter into this Purchase Contract and the other Issuer Documents, (ii) to adopt the Bond Resolution, (iii) to execute and deliver the Bonds and the Issuer Documents, (iv) to issue, sell and deliver the Bonds as provided herein, (v) to make the proceeds of the Bonds available to the Borrower as provided in the Loan Agreement, and (vi) to carry out the transactions contemplated by the Bonds and the Issuer Documents.

(b) The information in the Official Statement, as of the date thereof, as of the date hereof and at all times subsequent thereto up to and including the Closing Date, under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” was and is true and correct and did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) By official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has duly authorized and approved the execution and delivery of, and the performance by the Issuer of the obligations on its part contained in, the Bonds and the Issuer Documents and has duly authorized and approved the consummation of all other transactions to be performed by the Issuer as contemplated by this Purchase Contract and the other Issuer Documents.

(d) To the best of its knowledge, the Issuer is not in breach of or default under any applicable law or administrative regulation of the State or the United States that would impair the performance of its obligations under this Purchase Contract and the other Issuer Documents; and, to the best of its knowledge, the execution and delivery by the Issuer of the Bonds and the Issuer Documents and compliance by the Issuer with its obligations thereunder, will not conflict with or

constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject; provided, however, that the Issuer makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Note under the Securities Act of 1933, as amended (the “1933 Act”), or the qualification of the Indenture under the Trust Indenture Act of 1939, as amended (the “1939 Act”).

(e) To the best of Issuer’s knowledge, all approvals, consents and orders of any governmental authority, board, agency or commission having jurisdiction that would constitute a condition precedent to the performance by the Issuer of its obligations hereunder and under the other Issuer Documents have been obtained or will be obtained on or prior to the Closing Date; provided, however, that the Issuer makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Note under the 1933 Act, or the qualification of the Indenture under the 1939 Act.

(f) Except as disclosed in the Official Statement, the Issuer has received no written notice of any action, suit, proceeding, inquiry or investigation to which the Issuer is a party, at law or in equity, before or by any court, public board or body, pending, or threatened, against the Issuer affecting the existence of the Issuer or the titles of its officials to their respective offices or seeking to prohibit, restrain or enjoin the financing or the sale, issuance or delivery of the Bonds or the pledge of revenues or assets of the Issuer to be pledged, as provided in the Indenture, to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds and the Issuer Documents or contesting in any way the completeness or accuracy of the Official Statement, or contesting the powers or authority of the Issuer for the issuance of the Bonds and the execution and delivery of Issuer Documents wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Bonds or the Issuer Documents.

(g) The Issuer, with respect to the Bonds, has complied, and will at the Closing Date be in compliance in all material respects with the Issuer Documents and the relevant laws of the State.

(h) The Issuer will not knowingly take any action after the date hereof which would cause the Bonds not to conform in all material respects to the description thereof contained in the Official Statement.

Any certificate signed by an authorized officer of the Issuer and delivered to the Underwriter shall be deemed a representation and warranty by the Issuer to the Underwriter as to the statements made therein.

Section 5. Representations and Warranties of the Borrower. The Borrower represents and warrants to the parties hereto:

(a) The Borrower (i) is a limited partnership, duly formed and validly existing under the laws of the State of California and authorized to do business under the laws of the State, (ii) has the full right, power and authority to own its properties and assets, and to carry on its business

as now being conducted by it, and as contemplated by this Purchase Contract and the other Borrower Documents, and (iii) has the full right, power and authority to execute and deliver the Borrower Documents and to perform all the undertakings of the Borrower thereunder.

(b) The execution and delivery of the Borrower Documents and performance of its obligations in connection therewith have been duly authorized by the Borrower, and the Borrower Documents have been duly executed and delivered by the Borrower.

(c) As of the date hereof, the Borrower is not in any material respect in violation of, breach of or default under any applicable law of the State or of any state in which the Borrower is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, which violation or breach of or default would have a material adverse effect upon the transactions contemplated by this Purchase Contract, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Borrower's Documents, the performance by the Borrower of its obligations thereunder, the consummation by the Borrower of the transactions contemplated thereby and compliance with the provisions on the Borrower's part contained therein, do not and will not conflict with or constitute on the part of the Borrower a violation or breach of or default under any law of the State or of any state in which the Borrower is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets are bound which violation, breach or default would have a material adverse effect upon the transactions contemplated by this Purchase Contract, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or under the terms of any such law, regulation or instrument, except as provided by the Bonds or the Borrower Documents.

(d) On the Closing Date, the Borrower Documents will constitute the valid, legal and binding obligations of the Borrower (assuming due authorization, execution and delivery by the respective other parties thereto, where necessary), enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability affecting the enforcement of creditors' rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

(e) To the best of the Borrower's knowledge after due inquiry, no consent, approval, authorization or order of any court or governmental body is required for the consummation by the Borrower of the transactions contemplated by this Purchase Contract and the other Borrower Documents except such as have already been obtained or will be obtained on or prior to Closing

or may be required under the state securities or “Blue Sky” laws in connection with the purchase and distribution of the Bonds by the Underwriter.

(f) As of the date hereof, except as disclosed in the portions of the Official Statement captioned “THE PROJECT AND THE BORROWER,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project or the private participants), and “ABSENCE OF LITIGATION – The Borrower,” there is no action, suit, proceeding, inquiry or investigation of which the Borrower has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Borrower, affecting the existence of the Borrower or the titles of its officers executing this Purchase Contract to their respective offices, or contesting or affecting as to the Borrower the validity or enforceability of the Bonds, any of the Borrower Documents or the execution and delivery or adoption by the Borrower of any of the Borrower Documents, or in any way contesting or challenging the completeness or accuracy of the portions of the Preliminary Official Statement or the Official Statement captioned “THE PROJECT AND THE BORROWER,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project or the private participants), and “ABSENCE OF LITIGATION – The Borrower” or the powers of the Borrower or its authority with respect to the Borrower Documents or the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Borrower, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the financial condition or operations of the Borrower or the validity of the authorization, execution, delivery or performance by the Borrower of any of the Borrower Documents.

(g) The information set forth in the Official Statement (as amended or supplemented with the approval of the Underwriter, if the Official Statement shall have been amended or supplemented) as of the date hereof and as of the date thereof and at all times subsequent thereto up to and including the Closing Date was and is materially true and correct and does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(h) To the best of the Borrower’s knowledge, the Borrower has not defaulted in any undertaking entered into pursuant to Rule 15c2-12, if any.

Any certificate signed by the Borrower and delivered to the Underwriter shall be deemed a representation and warranty by the Borrower to the Underwriter as to the statements made therein.

Section 6. Covenants of the Issuer. The Issuer covenants with the parties hereto that:

(a) Upon request by the Underwriter, if between the date of this Purchase Contract and the date 90 days following the Closing Date an event occurs, that is known to the Issuer, affecting the Issuer, that would cause statements in the Official Statement under the captions “THE ISSUER” or “ABSENCE OF LITIGATION — The Issuer” to contain an untrue statement of a

material fact or to omit to state a material fact with respect to the Issuer, the Issuer shall advise the Underwriter.

(b) The Issuer, at the expense of the Borrower, will furnish such information, execute such instruments and take such other action consistent with the provisions of the Indenture in cooperation with the Underwriter as the Underwriter may reasonably request to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate; provided, however, the Issuer shall not be obligated to qualify to do business in any such state or jurisdiction, be required to register as a dealer or broker in any such state or jurisdiction or be required to take any action or file a general consent to service of process or become subject to service of process in any state or jurisdiction in which the Issuer is not now subject to service of process.

Section 7. Covenants of the Borrower. The Borrower covenants with the parties hereto that:

(a) The Borrower shall furnish or cause to be furnished to the Underwriter the final official Statement in accordance with Section 2 hereof.

(b) If between the date of this Purchase Contract and the date 90 days following the Closing Date an event occurs, that is known to the Borrower, that would cause the portions of the Official Statement captioned “THE PROJECT AND THE BORROWER,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project or the private participants), and “ABSENCE OF LITIGATION – The Borrower,” to contain an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Borrower shall notify the Issuer and the Underwriter and, if in the reasonable opinion of the Issuer or the Underwriter, such event requires an amendment or supplement to the Official Statement, the Issuer and the Borrower, at the expense of the Borrower, will amend or supplement the Official Statement in a form and in a manner jointly approved by the Issuer, the Borrower and the Underwriter; provided, however, if such event shall occur on or prior to the Closing Date, the Underwriter in its discretion shall have the right to terminate the obligations of the Underwriter hereunder by written notice to the Issuer and the Borrower, and, in that case, the Underwriter shall be under no obligation to purchase and pay for the Bonds.

(c) The Borrower will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts upon the reasonable request of the Underwriter to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the Borrower shall not be required to pay any amounts, register as a dealer or broker of securities or execute a general or special consent to service of process or qualify to do business in any jurisdiction where it is not now so subject.



(d) The Borrower shall take all necessary action on its part to cause the Bonds to comply with the provisions of the laws and regulations of the State pursuant to which the Bonds are issued, the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the “Code”) and will not take any action, or permit any action within its control to be taken, that would violate such provisions or that would cause interest on the Bonds to be included in gross income for federal income tax purposes.

Section 8. Conditions to Obligations of Underwriter and Issuer. The obligation of the Underwriter to purchase and pay for the Bonds and of the Issuer to issue and sell the Bonds will be subject to (i) the accuracy of the representations and warranties of the Issuer and the Borrower herein, (ii) the performance by the Issuer and the Borrower of their obligations hereunder, (iii) the receipt of the documents specified in Section 2 hereof, and (iv) the following additional conditions precedent:

(a) Except as may have been agreed to by the Issuer and the Underwriter, at the Closing Date, the Indenture and all other official action of the Issuer relating thereto shall be in full force and effect and shall not have been amended, modified or supplemented, and the Preliminary Official Statement and the Official Statement shall not have been amended or supplemented;

(b) The Underwriter and the Issuer shall have received the opinion of counsel to the Borrower, dated the Closing Date, in substantially the form attached as Exhibit A hereto. The Borrower hereby authorizes and directs its counsel to render such opinion to and for the benefit of the Underwriter and the Issuer;

(c) The Issuer shall have received the approving opinion of Bond Counsel, dated the Closing Date and substantially in the form attached to the Preliminary Official Statement and the Official Statement addressed to the Issuer and the Trustee, and the Underwriter shall have received a reliance opinion with respect thereto, and the supplemental opinion of Bond Counsel, dated the Closing Date, acceptable in form and substance to the Underwriter;

(d) The Underwriter shall have received the opinion of Norris George & Ostrow PLLC, Washington, D.C., counsel to the Underwriter, as to such matters as the Underwriter may reasonably request;

(e) The Underwriter shall have received a certificate, dated the Closing Date, signed by a duly authorized official of the Issuer, in substantially the form attached as Exhibit C hereto;

(f) The Underwriter shall have received a certificate dated the Closing Date, signed by a duly authorized representative of the Borrower, in substantially the form attached as Exhibit D hereto;

(g) The Underwriter shall have received a certificate, dated the Closing Date and signed by an authorized officer of the Trustee, to the effect that (i) he or she is an authorized officer of the Trustee; (ii) the Indenture has been duly executed and delivered by the Trustee; (iii) the Trustee has all necessary corporate and trust powers required to carry out the trust created by the Indenture; and (iv) to his or her knowledge, the acceptance by the Trustee of the duties and obligations of the Trustee under the Indenture and compliance with the provisions thereof will not conflict with or

constitute a breach of or default under any law, administrative regulation, consent decree or any material agreement or other material instrument to which the Trustee is subject;

(h) The Underwriter shall have received evidence that Moody's Investors Service, Inc. (the "Rating Agency"), has assigned and not withdrawn a rating of "Aaa/VMIG 1" with respect to the Bonds;

(i) The Underwriter and the Issuer shall have received a certificate of the Borrower, dated the Closing Date and signed by its authorized representative, to the effect that (i) each of the Borrower's representations and warranties contained herein and in all Borrower Documents, which representations and warranties will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects; (ii) the Borrower has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing; (iii) since the date of the Official Statement and except as set forth therein, there has not been any material adverse change in the Borrower's operations, financial or otherwise; (iv) the information contained in the Preliminary Official Statement and the Official Statement is materially true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading in any material respect; and (v) such other matters as the Underwriter may reasonably request; and

(j) The Underwriter shall have received such additional certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel may reasonably request to evidence compliance by the Trustee or the Borrower with legal requirements of closing, and to certify the truth and accuracy, as of the Closing Date, of the representations of the Issuer and the Borrower contained herein and the due performance or satisfaction by the Issuer and the Borrower at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by each of them.

Section 9. Termination. The Underwriter may terminate its obligations hereunder by written notice from the Underwriter to the Issuer and the Borrower if, at any time subsequent to the date hereof and at or prior to the Closing Date:

(a) (i) Legislation shall have been enacted by the Congress, or recommended to the Congress for passage by the President of the United States or the United States Department of the Treasury or the Internal Revenue Service or any member of the United States Congress, or favorably reported for passage to either House of the Congress by any Committee of such House to which such legislation has been referred for consideration, or (ii) a decision shall have been rendered by a court established under Article III of the Constitution of the United States, or the United States Tax Court, or (iii) an order, ruling, regulation or communication (including a press release) shall have been issued by the Department of the Treasury of the United States or the Internal Revenue Service, in each case referred to in clauses (i), (ii) and (iii), with the purpose or effect, and reasonable likelihood, directly or indirectly, of imposing federal income taxation upon interest to be received by any holders of the Bonds (other than for the purposes of computing branch profits tax, or tax on S corporations).

(b) Legislation shall have been enacted or any action taken by the Securities and Exchange Commission that, in the reasonable opinion of the Underwriter, has the effect of requiring the offer or sale of the Bonds to be registered under the 1933 Act, or the Indenture to be qualified as an indenture under the Trust Indenture Act of 1939, as amended, or any event shall have occurred that, in its reasonable judgment, makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or that, in its reasonable judgment, should be reflected therein in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading in any material respect.

(c) (i) In the Underwriter's reasonable judgment, the market price of the Bonds is materially adversely affected because: (a) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; (b) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Bonds or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, underwriters; (c) a general banking moratorium shall have been established by federal, or New York authorities; or (d) a war involving the United States of America shall have been declared, or any other national or international calamity or crisis (including, without limitation, an act of terrorism) shall have occurred or escalated (including an escalation of the COVID-19 pandemic), or any conflict involving the armed forces of the United States of America shall have escalated to such a magnitude as to materially adversely affect the Underwriter's ability to market the Bonds; (ii) any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance or sale of the Bonds or in any way contesting or affecting any authority or security for or the validity of the Bonds, or the existence or powers of the Issuer; (iii) legislation shall have been enacted by the City Council of the State with the purpose or effect, directly or indirectly, of imposing State personal income and municipal income taxes upon interest on the Bonds to be received by any holders thereof; or (iv) any action has been taken by any agency of the United States Government with the purpose or effect, directly or indirectly, of imposing federal income taxation upon interest to be received by any holders of the Bonds or that would, in the Underwriter's reasonable judgment, adversely affect the security for the Bonds.

(d) There shall have occurred any change that, in the reasonable judgment of the Underwriter, makes unreasonable or unreliable any of the assumptions upon which (i) yield for purposes of Section 103 of the Code, (ii) payment of debt service on the Bonds or (iii) the basis for the exclusion of interest on the Bonds from gross income for federal income tax purposes, is predicated.

(e) The rating of the Bonds shall have been downgraded or withdrawn by the Rating Agency.

Section 10. Fees and Expenses. The Underwriter shall pay its own expenses relating to the offering and sale of the Bonds. All other expenses relating to the issuance of the Bonds, including, but not limited to, the Underwriting Fee provided in Section 1 hereof; the fees and expenses of counsel to the Underwriter; the Rating Agency fee; the cost of the preparation, printing or other reproduction of this Purchase Contract, the Preliminary Official Statement and the Official

Statement, as supplemented or amended, the Indenture and the other Financing Documents in reasonable quantities for distribution; the cost of engraving, reproducing and signing the definitive Bonds; CUSIP fees; the cost of qualifying the Bonds for sale in various states chosen by the Underwriter and the cost of preparing or printing any Preliminary Blue Sky Survey to be used in connection with such sale; the fees and expenses of Bond Counsel; the Issuer's fees and expenses and the fees and expenses of its counsel; the cash flow verification fee (as applicable); and the Trustee fees and expenses and expenses of its counsel shall be paid by the Borrower on the Closing Date in immediately available funds. In addition, the Borrower shall pay or cause to be paid any and all other costs and expenses in connection with the issuance of the Bonds including, but not limited to, the expenses of counsel to the Borrower, and any document recording costs. The Borrower shall pay or reimburse the Underwriter for any fees, expenses or costs incurred in connection with the breaking or extending of trades with purchasers of the Bonds or of trades for the purchase of securities for the investment of Bond proceeds as a result of a delay in the Closing Date or a failure to deliver the Bonds, other than a failure caused by the Underwriter's refusal to accept and pay for the Bonds for a reason that is not permitted pursuant to this Purchase Contract.

The Borrower and the Underwriter acknowledge that expenses included in the expense component of the Underwriting Fee are based upon estimates. The Borrower and the Underwriter agree that in the event the aggregate estimated expenses exceed the aggregate actual expenses incurred by the Underwriter in an amount equal to or greater than \$1,000 (the "Reimbursement Threshold"), the Underwriter shall reimburse to the Borrower the amount that the aggregate estimated expenses exceed the aggregate actual expenses. For the avoidance of doubt, the Borrower acknowledges and agrees that in the event the aggregate estimated expenses exceed the aggregate actual expenses incurred by the Underwriter in an amount less than the Reimbursement Threshold, no reimbursement will be made by the Underwriter. The Borrower acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Bonds.

The Underwriter is required to pay fees to the California Debt and Investment Advisory Commission in connection with the Bond offering. Notwithstanding that such fees are solely the legal obligation of the Underwriter, the Borrower agrees to reimburse the Underwriter for such fees.

#### Section 11. Indemnification.

(a) The Borrower agrees to pay, defend, protect, indemnify, save and hold harmless the Issuer and the Underwriter and each affiliate, member, officer, director, official, supervisor, counsel, attorney, employee and agent past, present and future of the Issuer and the Underwriter and their respective counsel, and each person, if any, who controls any of the foregoing within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act (each an "Indemnified Party" and all collectively referred to herein as the "Indemnified Parties"), against any and all actual liabilities, losses, damages, costs, expenses (including attorneys' fees whether incurred before trial, at trial, on appeal or in any bankruptcy or arbitration proceeding), causes of action (whether in contract, tort, or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the "Liabilities") caused by or directly or indirectly arising from or in any way relating to (i) the Bonds, the Project, the loan of the proceeds of the Bonds, the

tax-exempt nature of the Bonds, this Purchase Contract or any other Financing Documents or any transaction or agreement, written or oral, pertaining to the foregoing except for the Issuer's or the Underwriter's grossly negligent acts or willful misconduct with respect thereto, or (ii) any untrue or misleading statement or alleged untrue or alleged misleading statement related to the Borrower or the Project contained in, or omission from or alleged omission from, the portions of the Preliminary Official Statement or the Official Statement captioned "THE PROJECT AND THE BORROWER," "CERTAIN BONDHOLDERS' RISKS" (but only with respect to those risks that expressly relate to the Borrower, the Project or the private participants), and "ABSENCE OF LITIGATION – The Borrower" necessary to be stated therein in order to make the statements made therein related to the Borrower or the Project, in the light of the circumstances under which they were made, not misleading.

(b) Any Indemnified Party shall notify the Borrower of the existence of any Liability to which this indemnification obligation would apply and shall give to the Borrower an opportunity to defend the same at the Borrower's expense and with counsel satisfactory to the Indemnified Party, provided that the Indemnified Party shall at all times also have the right to fully participate in the defense. If there may be legal defenses available to the Indemnified Party which are different from or in addition to those available to the Borrower or if the Borrower shall, after this notice and within a reasonable period of time necessary to preserve any and all defenses to any claim asserted, fail to assume the defense or to employ counsel for that purpose satisfactory to the Indemnified Party, the Indemnified Party shall have the right, but not the obligation, at the expense of the Borrower to undertake the defense of, and, with the approval of the Borrower, to compromise or settle the claim or other matter on behalf of, for the account of, and at the risk of, the Borrower.

(c) In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph (a) of this Section 11 is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bears to the aggregate offering price of the Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the aggregate fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds. No person guilty of fraudulent misrepresentation (within Section 10(b) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such misrepresentation.

(d) The Indemnified Parties shall be considered to be third-party beneficiaries of this Purchase Contract for purposes of this Section 11. The provisions of this Section 11 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination of this Purchase Contract, the offering and sale of the Bonds and the payment or provision for payment of the Bonds.

The indemnification hereunder shall be in addition to, and shall not limit, any indemnity granted by the Borrower pursuant to the Loan Agreement, the Regulatory Agreement or any other document.

Section 12. Notices. Any notice or other communication to be given to the Borrower or the Issuer under this Purchase Contract may be given by delivering the same in writing to the Borrower or the Issuer, as the case may be, at their respective addresses set forth on the cover page hereto, and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to the Underwriter at Wells Fargo Bank, National Association, 30 Hudson Yards, 14th Floor, New York, New York 10001, Attention: Patrice Mitchell.

Section 13. Successors. This Purchase Contract is made solely for the benefit of the Issuer, the Underwriter and the Borrower (including their successors or assigns) and, except as provided in Section 11 hereof, no other person shall acquire or have any right hereunder or by virtue hereof. The representations, warranties, and agreements continued herein shall remain operative and in full force and effect and shall survive delivery of and payment for the Bonds hereafter, regardless of any investigation made by or on behalf of the Underwriter.

Section 14. Governing Law. This Purchase Contract shall be governed by the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 15. Counterparts. This Purchase Contract may be executed in one or more counterparts, each of which shall be deemed to be one and the same document.

[Remainder of page intentionally left blank]

Section 16. Effectiveness. This Purchase Contract shall become effective upon the execution of the acceptance hereof by the Issuer and the Borrower.

Very truly yours,

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION**

By: \_\_\_\_\_  
[NAME]  
[TITLE]

The foregoing is confirmed and accepted as of the date first above written.

**LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY**

By \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

Dawyn R. Harrison, Acting County Counsel

\_\_\_\_\_  
Deputy

[Signatures continue on next page]



[Borrower's signature page to the Purchase Contract]

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

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

Name: Jordan Pynes

Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

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

Name: Carol Cromar

Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

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

Name: Jordan Pynes

Title: President

**SCHEDULE I**

**MATURITY, INITIAL MANDATORY TENDER DATE, PRINCIPAL AMOUNT, AND  
INITIAL INTEREST RATE**

<b>Principal Amount</b>	<b>Maturity Date</b>	<b>Initial Mandatory Tender Date</b>	<b>Initial Interest Rate</b>	<b>Price</b>
\$33,755,000	[____ 1, 20__]	The earlier of (i) the Conversion Date or (ii) [____ 1, 20__]	[____]%	100%

**EXHIBIT A**

**FORM OF OPINION OF COUNSEL TO THE BORROWER**

November \_\_, 2022

Wells Fargo Bank, National Association  
New York, New York

Los Angeles County Development Authority  
Los Angeles, California

U.S. Bank Trust Company, National Association  
Los Angeles, California

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments), 2022 Series F

Ladies and Gentlemen:

We have acted as counsel to VA Building 402 LP, a California limited partnership (the “Borrower”), in connection with the issuance of the above-captioned bonds (the “Bonds”) by the Los Angeles County Development Authority (the “Issuer”).

Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture or the Bond Purchase Agreement.

In our capacity as such counsel, in rendering the opinions set forth below, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of the following documents: (i) the Official Statement, dated \_\_\_\_\_, 2022, of the Issuer relating to the Bonds (the “Official Statement”); (ii) the Regulatory Agreement and Declaration of Restrictive Covenants, among the Issuer, U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and the Borrower, dated as of November 1, 2022; (iii) the Loan Agreement, dated as of November 1, 2022, between the Issuer and the Borrower; (iv) the Purchase Contract, dated \_\_\_\_\_, 2022, among the Issuer, the Underwriter named therein and the Borrower (the “Bond Purchase Agreement”); (v) the Continuing Disclosure Agreement, dated as of November 1, 2022, among the Borrower and the Dissemination Agent named therein; (vi) the Remarketing Agreement, dated as of November 1, 2022, between the Borrower and the Remarketing Agent named therein; (vii) the promissory note, dated the Closing Date, executed by the Borrower; (viii) 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, between the Issuer and the Borrower; and (ix) such other documents, certificates and instruments as we have deemed necessary for the purposes of reaching the opinion expressed herein. We have also relied as to

matters of fact upon a certificate of the Borrower and examined certain other certificates and documents.

In such examination, we have assumed the genuineness of all signatures (other than those relating to the Borrower), the authenticity of all documents submitted to us as originals, and the conformity to the original document of all documents submitted to us as photostatic or certified copies. We have assumed due authorization, execution and delivery of all documents referenced herein by the parties thereto other than the Borrower and that each of such parties has full power, authority and legal right to execute and deliver each such instrument.

Based upon and subject to the foregoing, we are of the opinion that, as of the date hereof:

(i) The Borrower is (a) a limited partnership validly existing under the laws of the State of California, (b) is in good standing and duly qualified to transact business in the State of California (the "State"), and (c) has with full power and authority to execute and deliver the documents listed above numbered (ii) through (viii) (the "Financing Documents") and the Official Statement and to perform its obligations under each respective agreement.

(ii) The Financing Documents have each been duly authorized, executed and delivered by the Borrower and constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization and similar laws (including fraudulent conveyance laws) affecting the enforcement of creditors' rights and remedies generally in effect from time to time, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(iii) The execution and delivery of the Financing Documents and the performance by the Borrower of the terms of the respective agreements do not conflict with or violate any other document, instrument, decree, indenture or agreement by which the Borrower is bound.

(iv) No approval, authorization or other action by, or filing with, the State or any agency thereof, is required in connection with the execution and delivery by the Borrower of the Bond Purchase Agreement.

(v) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before any court or public body pending or, to the best of our knowledge, threatened, to challenge the right, power or authority of the Borrower to acquire, own and operate the Project or to perform its obligations under the Bond Purchase Agreement or the other Financing Documents.

(vi) The information in the Official Statement does not contain an untrue statement of fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of the date hereof.

We express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our

clients, the ability of our clients to meet their obligations under any of the above-referenced agreements or any other related document.

Very truly yours,

**EXHIBIT B**

[RESERVED]

**EXHIBIT C**

**FORM OF CLOSING CERTIFICATE OF THE ISSUER**

**\$33,755,000**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

November \_\_, 2022

The undersigned, for and on behalf of the Los Angeles County Development Authority (the “Issuer”), hereby certifies represents and warrants to the Underwriter and the Borrower named in the Official Statement referred to below, as follows:

(1) The information in the Official Statement, dated \_\_\_\_\_ \_\_, 2022, with respect to the above-captioned bonds (the “Official Statement”), under the captions “THE ISSUER” and, with respect to the Issuer, “ABSENCE OF LITIGATION — The Issuer”, as of the date thereof and as of the date hereof, was and is true and correct did not and does not contain an untrue or misleading statement of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(2) Except as disclosed in the Official Statement, the Issuer has received no written notice of any litigation or other proceedings pending against the Issuer or threatened against the Issuer, in any court or other tribunal of competent jurisdiction, State of California or federal, in any way (A) restraining or enjoining the issuance, sale or delivery of the Bonds, (B) questioning or affecting the validity of the Purchase Contract, the Bonds, the Indenture, the Loan Agreement, the Regulatory Agreement, the Tax Certificate, the pledge to the Trustee of any money or other security provided under the Indenture, or any other transaction referred to in the Official Statement, (C) questioning or affecting the validity of any of the proceedings for the authorization, sale, execution, issuance or delivery of the Bonds, (D) questioning or affecting the organization or existence of the Issuer or the title to office of the officers thereof or (E) questioning or affecting the power and authority of the Issuer to issue the Bonds, or to execute the Purchase Contract, the Indenture, the Loan Agreement, the Regulatory Agreement and the Tax Certificate.

(3) The representations and warranties of the Issuer contained in the Purchase Contract are true and correct as of the date hereof.

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Official Statement.

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

**LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY**

By \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name



## **EXHIBIT D**

### **FORM OF CLOSING CERTIFICATE OF BORROWER**

**\$33,755,000**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

November \_\_, 2022

The undersigned on behalf of the limited partnership set forth below (the “Borrower”), hereby certifies, represents and warrants to the Los Angeles County Development Authority (the “Issuer”) and to Wells Fargo Bank, National Association (the “Underwriter”), as follows:

(1) The representations and warranties of the Borrower contained in the Purchase Contract, dated \_\_\_\_\_ \_\_, 2022, among the Borrower, the Issuer and the Underwriter (the “Purchase Contract”) and the other Borrower Documents (as defined below) are true and correct in all material respects as of the date hereof.

(2) The Borrower has complied with all agreements and satisfied all material conditions contained in the Purchase Contract on its part to be performed or satisfied prior to the date hereof.

(3) Since the date of the Official Statement and except as set forth therein, there has not been any material adverse change in the Borrower’s operations, financial or otherwise.

(4) The information in the Preliminary Official Statement, as of the date thereof and as of the date hereof and in the Official Statement, as of the date thereof and as of the date hereof, was and is materially true and correct and did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(5) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any of its affiliates, nor, to the best knowledge of the Borrower, is there any basis therefor, wherein an unfavorable decision, ruling or finding would, in any way, adversely affect the transactions contemplated by the Loan Agreement or the operation and management of the Project, or that might result in any material adverse change in the business, operations, properties, assets, liabilities or condition (financial or other) of the Borrower or that affects the information in the Preliminary Official Statement and the Official Statement.

(5) The execution and delivery of the Loan Agreement, the Tax Certificate, the Regulatory Agreement, the Continuing Disclosure Agreement, the Note, the Remarketing Agreement and the Purchase Contract (collectively, the “Borrower Documents”) and the

performance by the Borrower of its obligations thereunder will not constitute a breach of or default by the Borrower under its organizational documents or the terms and provisions of any agreement or commitment to which the Borrower is presently a party or by which the Borrower is presently bound.

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Official Statement.

[Signature page to Borrower's Certificate]

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

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

Name: Jordan Pynes

Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

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

Name: Carol Cromar

Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

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

Name: Jordan Pynes

Title: President

**EXHIBIT E**

**FORM OF RULE 15c2-12 CERTIFICATE**

**\$33,755,000**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS**

**(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

The undersigned hereby certifies and represents to Wells Fargo Bank, National Association (the “Underwriter”) that they are authorized to execute and deliver this certificate on behalf of VA Building 402 LP, a California limited partnership (the “Borrower”), and hereby further certifies to the Underwriter as follows:

(a) This Certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) in connection with the issuance and sale of the above captioned bonds (the “Bonds”).

(b) In connection with the issuance and sale of the Bonds, there has been prepared a Preliminary Official Statement dated \_\_\_\_\_, 2022, setting forth information concerning the Bonds and the Borrower (the “Preliminary Official Statement”).

(c) As used herein, “Permitted Omissions” shall mean the offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters and the identity of the underwriter(s), all with respect to the issuance and sale of the Bonds.

(d) The Preliminary Official Statement is, as of the date thereof, deemed final within the meaning of the Rule, except for Permitted Omissions.

(e) The section of the Preliminary Official Statement entitled “CONTINUING DISCLOSURE” describes the agreement the Borrower expects to make for the benefit of the Bondholders in the Continuing Disclosure Agreement dated as of November 1, 2022, by and between the Borrower and U.S. Bank Trust Company, National Association, in its capacity as dissemination agent, by which the Borrower will undertake to provide continuing disclosure in accordance with the Rule.

Dated: [POS DATE]

[Remainder of page intentionally left blank]

[Signature page to Rule 15c2-12 Certificate]

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

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

Name: Jordan Pynes

Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

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

Name: Carol Cromar

Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

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

Name: Jordan Pynes

Title: President

## EXHIBIT F

### FORM OF ISSUE PRICE CERTIFICATE

**\$33,755,000**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

The undersigned, on behalf of Wells Fargo Bank, National Association (the “Underwriter”), on behalf of itself, hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

1. Sale of the Bonds. As of the date of this certificate, for the single Maturity of the Bonds, the first price at which at least 10% of the Maturity of the Bonds was sold to the Public is the respective price listed in Schedule I attached to the Purchase Contract dated \_\_\_\_\_, 2022 among the Underwriter, VA Building 402 LP, a California limited partnership (the “Borrower”), and the Los Angeles County Development Authority (the “Issuer”).

2. Defined Terms.

(a) “Issuer” means the Los Angeles County Development Authority, a public body, corporate and politic organized and existing under the laws of the State of California.

(b) “Maturity” means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(c) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than the Underwriter or a related party to the Underwriter. The term “related party” for purposes of this certificate means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(d) “Underwriter” means (i) Wells Fargo Bank, National Association (ii) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (iii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (ii) of this paragraph to participate in the initial sale of the Bonds to the Public (including a

member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Kutak Rock LLP, Omaha, Nebraska, Bond Counsel, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Bonds.

Dated: \_\_\_\_\_, 2022

[Signature Page Follows]

[Underwriter Signature Page to Issue Price Certificate]

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION**

By: \_\_\_\_\_  
[NAME]  
[TITLE]



## LOAN PURCHASE AGREEMENT

This LOAN PURCHASE AGREEMENT (this "**Agreement**") is made and entered into as of [\_\_\_\_\_] 1, 2022 by and among LOS ANGELES COUNTY DEVELOPMENT AUTHORITY, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as fiscal agent ("**Fiscal Agent**"), CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, a California nonprofit public benefit corporation ("**CCRC**"), VA BUILDING 402 LP, a California limited partnership (the "**Borrower**"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America ("**Bank**").

### RECITALS

A. Borrower is the owner of a subleasehold estate in certain real property more particularly described in the Deed of Trust (as defined below) (collectively, the "**Property**"), pursuant to the terms of that certain Sublease Agreement of [West LA VA Building 402] at the VA Greater Los Angeles Healthcare System – West Los Angeles Campus dated on or about [\_\_\_\_\_] (the "**Enhanced Use Sublease**"), executed by West LA Veterans Collective, LLC, a California limited liability company ("**Principal Developer**"), as sublessor, and Borrower, as sublessee, which Property comprises a portion of certain real property leased by the Secretary of Veterans Affairs, an officer of the United States on behalf of the Department of Veterans Affairs (the "**VA**"), to Principal Developer pursuant to that certain Principal Developer Enhanced-Use Lease of Certain Real Property and Facilities at the VA Greater Los Angeles Healthcare System – West Los Angeles Campus, Los Angeles, California dated as of June 29, 2022 (the "**Enhanced Use Lease**").

B. Governmental Lender is issuing those certain \$[\_\_\_\_\_] Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Bonds**") pursuant to the terms of that certain Trust Indenture dated as of [\_\_\_\_\_] 1, 2022 (the "**Indenture**"), executed by and between Governmental Lender, in its capacity as Issuer, and Fiscal Agent, in its capacity as Trustee, which Bonds are being purchased by Wells Fargo Bank, National Association, in its capacity as underwriter ("**Underwriter**"), in accordance with the terms of that certain Purchase Agreement dated as of [\_\_\_\_\_] 1, 2022, executed by and among Governmental Lender, Underwriter and Borrower, and shall be further marketed and sold by Underwriter to certain investors pursuant to a public offering as more specifically described in that certain Official Statement dated on or about [\_\_\_\_\_] 1, 2022 relating to the sale of the Bonds. Governmental Lender shall use the proceeds of such sale to fund a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Loan**") pursuant to the terms of that certain Loan Agreement dated as of [\_\_\_\_\_] 1, 2022 (the "**Construction Period Borrower Loan Agreement**"), executed by and between Governmental Lender and Borrower, in order to finance a portion of the acquisition, construction and development of a multifamily rental housing development consisting of one hundred twenty (120) units on the Property (the "**Improvements**" and collectively with the Property, the "**Project**") pursuant to certain plans and specifications approved by Bank and CCRC (the "**Plans and Specifications**"). Except for its Reserved Rights (as defined in the Indenture), Governmental Lender has assigned to Fiscal Agent all of its right, title and interest in, to and under the Loan (including, without limitation, with respect to the Construction Period Borrower Loan Agreement) pursuant to the terms of the Indenture. The Loan is evidenced by a promissory note (the "**Construction Period Borrower Note**") dated as of the date of closing of the Loan (the "**Closing Date**") made by Borrower to the order of Fiscal Agent, as assignee of Governmental Lender under the Indenture, in the original principal amount of the Loan, and is secured by, among other things, funds on deposit in the Collateral Fund (as defined in the Indenture) held by Fiscal Agent. The Construction Period Borrower Loan Agreement, Construction Period Borrower Note and any other loan documents executed by Borrower in connection with the Loan prior to the Conversion Date are hereinafter collectively referred to as the "**Construction Period Loan Documents**."

C. Concurrently with the issuance of the Bonds, Bank is making a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the “**Bank Loan**”) pursuant to the terms of that certain Construction Loan Agreement dated as of [\_\_\_\_\_] , 2022 (the “**Bank Loan Agreement**”), executed by and between Bank and Borrower, the proceeds of which shall be disbursed by Bank to Fiscal Agent on behalf of Borrower from time to time in amounts equal to corresponding disbursements of the Loan, and shall be deposited by Fiscal Agent in the Collateral Fund as cash collateral for the Loan. The Bank Loan is evidenced by that certain Promissory Note (SOFR in Advance) dated as of [\_\_\_\_\_] , 2022 (the “**Bank Note**”), made by Borrower to the order of Bank and is secured by that certain Construction and Permanent Leasehold Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of even date with the Bank Loan Agreement (the “**Deed of Trust**”), executed by Borrower for the benefit of Bank, which shall be recorded in the Official Records of the County of Los Angeles, California (the “**Official Records**”) on or about the Closing Date, and certain other loan documents executed by Borrower with or in favor of Bank (collectively with the Deed of Trust, the “**Bank Security Documents**”). The Bank Loan Agreement, the Bank Note, the Deed of Trust, the Bank Security Documents and the other loan documents executed by Borrower in connection with the Bank Loan are hereinafter referred to as the “**Bank Loan Documents**.”

D. CCRC has, subject to satisfaction of the terms, conditions and requirements of this Agreement, agreed to purchase the Governmental Lender Note (as defined below) on the Conversion Date (as defined herein) by funding a loan to Governmental Lender (the “**Funding Loan**”) in the amount of the CCRC Purchase Price (as defined and subject to modification as set forth herein). As conditions to and in connection with such purchase, (i) the Bonds shall be subject to mandatory tender by the bondholders in accordance with the terms of the Indenture, the purchase price of which shall be paid by Fiscal Agent from funds on deposit in the Collateral Fund, (ii) Bonds representing any outstanding principal amount in excess of the CCRC Purchase Price shall be redeemed and cancelled such that the remaining principal amount of the Bonds shall be equal to the CCRC Purchase Price, (iii) the Bonds shall be removed from the Book Entry System described in the Indenture and converted to a physical tax-exempt promissory note (in substantially the form of that certain Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F attached to the form of Funding Loan Agreement (as defined below) attached hereto as Exhibit A), which shall be dated as of the Conversion Date and executed by Governmental Lender to the order of CCRC (the “**Governmental Lender Note**”), which shall be purchased by CCRC in order to evidence the Funding Loan from and after the Conversion Date, (iv) Governmental Lender, Fiscal Agent and CCRC shall execute and enter into a Funding Loan Agreement substantially in the form attached hereto as Exhibit A (the “**Funding Loan Agreement**”) in order to govern the Funding Loan from and after the Conversion Date, which shall supercede and replace the Indenture (except as specifically set forth therein), (v) the Funding Loan and Loan will each convert to a term loan in an amount equal to the CCRC Purchase Price with a term of eighteen (18) years (the “**Permanent Loan**”), (vi) Governmental Lender and Borrower shall execute and enter into a Borrower Loan Agreement substantially in the form attached hereto as Exhibit B (the “**Borrower Loan Agreement**”) in order to govern the Permanent Loan from and after the Conversion Date, which shall supercede and replace the Construction Period Borrower Loan Agreement, (vii) Borrower and CCRC shall execute and enter into that certain Permanent Period Funding Agreement substantially in the form attached hereto as Exhibit C (the “**Permanent Funding Agreement**”) in order to supplement the Borrower Loan Agreement and govern the Permanent Loan from and after the Conversion Date, (viii) Borrower shall execute and deliver to Fiscal Agent a promissory note substantially in the form attached hereto as Exhibit D (the “**Borrower Note**”), which shall amend and restate the Construction Period Borrower Note in its entirety, (ix) the proceeds of the CCRC Purchase Price, together with other funds contributed by or on behalf of Borrower, shall be deposited into the Construction Loan Prepayment Fund (as defined in the Indenture) and applied by Fiscal Agent on behalf of Borrower to pay in full all amounts outstanding under the Bank Loan, (x) as consideration for funding the repayment of the Bank Loan, Bank shall assign to Fiscal Agent for the benefit of CCRC all of its right, title and interest in, to and under the Deed of Trust and certain subordination agreements executed with or in favor of Bank by executing and delivering that certain Assignment and Assumption of Deed of Trust and Subordination Agreements substantially in the form attached hereto as Exhibit E (the “**Assignment of Deed of Trust**”), which shall be recorded in the Official Records on the Conversion Date, and Bank shall assign to CCRC all of its right, title and interest in, to and under certain of the other Bank Security Documents by executing and delivering that certain unrecorded

Assignment and Assumption of Loan Documents substantially in the form attached hereto as Exhibit F (the “**Assignment of Loan Documents**”), and (xi) Borrower shall execute with or in favor of CCRC a Replacement Reserve Agreement substantially in the form attached hereto as Exhibit G (the “**Replacement Reserve Agreement**”), together with any further agreements required by CCRC to be executed and delivered in connection with the Conversion of the Loan to the Permanent Loan and CCRC’s administration thereof from and after the Conversion Date. The Funding Loan Agreement, the Governmental Lender Note and all other documents executed and delivered in connection with the Funding Loan are hereinafter referred to as the “**Funding Loan Documents**.” From and after the Conversion Date, the Borrower Loan Agreement, the Permanent Funding Agreement, the Borrower Note, the Deed of Trust, the remainder of the Purchased Documents (as defined below), the Replacement Reserve Agreement and any other agreements or instruments required by CCRC to be executed by Borrower in connection with the Permanent Loan shall be collectively referred to as the “**Permanent Loan Documents**.” Notwithstanding the foregoing, if CCRC does not purchase the Funding Loan for any reason whatsoever, the Bonds and Loan will remain obligations of Borrower pursuant to the terms and conditions of the Indenture, Bonds, Construction Period Borrower Loan Agreement, Construction Period Borrower Note and any other loan documents executed by Borrower with or in favor of Governmental Lender and/or Fiscal Agent in connection with the Loan. Capitalized terms not defined herein shall have the meanings specified in the Permanent Funding Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties herein contained, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1.  
PURCHASE OF FUNDING LOAN

1.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, Governmental Lender agrees to sell to CCRC, and CCRC agrees to purchase from Governmental Lender, through Fiscal Agent, without recourse, the Funding Loan evidenced by the Governmental Lender Note (which at the time of purchase shall have principal outstanding equal to the CCRC Purchase Price as defined in Section 2.1 hereof), such that upon such sale and purchase, CCRC shall own and hold all of the right, title and interest of the “**Funding Lender**” under the Governmental Lender Note, the other Funding Loan Documents, the Borrower Loan Agreement (which shall be held by Fiscal Agent for the benefit of CCRC) and the Borrower Note (which shall be held by Fiscal Agent for the benefit of CCRC). As conditions to such purchase (in addition to those set forth in Section 3.1 and in Exhibit K hereof) and concurrently therewith:

- (a) The Bonds shall be tendered by the bondholders in accordance with the terms of the Indenture in consideration of funds applied thereto by Fiscal Agent from funds on deposit in the Collateral Fund;
- (b) Any Bonds representing any outstanding principal amount in excess of the CCRC Purchase Price shall be redeemed and cancelled such that the remaining principal amount of the Bonds shall be equal to the CCRC Purchase Price (as modified in accordance with the terms of this Agreement, to the extent applicable);
- (c) The Bonds shall be removed from the Book Entry System described in the Indenture and replaced by the Governmental Lender Note made to the order of CCRC;
- (d) Governmental Lender, Fiscal Agent and CCRC shall execute and enter into the Funding Loan Agreement substantially in the form attached hereto as Exhibit A, which shall supercede and replace the Indenture (except as specifically set forth therein) from and after the Conversion Date;
- (e) Governmental Lender and Borrower shall execute and enter into the Borrower Loan Agreement substantially in the form attached hereto as Exhibit B, which shall supercede and replace the Construction Period Borrower Loan Agreement from and after the Conversion Date;

- (f) Borrower and CCRC shall execute and enter into the Permanent Funding Agreement substantially in the form attached hereto as Exhibit C, which shall supplement the Borrower Loan Agreement and govern the Permanent Loan from and after the Conversion Date;
- (g) Borrower shall execute and deliver to Fiscal Agent the Borrower Note substantially in the form attached hereto as Exhibit D, which shall amend and restate the Construction Period Borrower Note in its entirety from and after the Conversion Date;
- (h) The proceeds of the CCRC Purchase Price, together with other funds contributed by or on behalf of Borrower, shall be deposited into the Construction Loan Prepayment Fund (as defined in the Indenture) and applied by Fiscal Agent on behalf of Borrower to pay in full all amounts outstanding under the Bank Loan;
- (i) As consideration for funding the repayment of the Bank Loan, Bank shall assign to Fiscal Agent and CCRC, as applicable, the Deed of Trust and other Purchased Documents, as more specifically set forth in Section 1.2 below; and
- (j) Borrower and CCRC shall execute the Replacement Reserve Agreement substantially in the form attached hereto as Exhibit G and any other Permanent Loan Documents required by CCRC.

1.2 Assignment of Purchased Documents. In connection with CCRC's purchase of the Funding Loan and in consideration for funding on behalf of Borrower a portion of the repayment of the Bank Loan, (a) Bank, Fiscal Agent and CCRC shall execute the Assignment of Deed of Trust substantially in the form attached hereto as Exhibit E, which shall be recorded in the Official Records on the Conversion Date, and (b) Bank and CCRC shall execute the Assignment of Loan Documents substantially in the form attached hereto as Exhibit F, pursuant to the terms of which, Bank shall have assigned to Fiscal Agent and CCRC, as applicable, all of its rights, title and interests in and to the following Bank Security Documents and other documents (collectively, the "**Purchased Documents**");

- (a) The Deed of Trust, with evidence of recording thereon (which shall be held by Fiscal Agent for the benefit of CCRC);
- (b) The original or a copy of any legal opinion letter addressed to Bank and its successors and assigns from Borrower's legal counsel dated as of the Closing Date, plus an update thereof in favor of CCRC (if requested by CCRC) in form and substance reasonably satisfactory to CCRC;
- (c) All appropriate Uniform Commercial Code financing statements and continuation statements (the "**UCC Statements**") sufficient to perfect (and maintain the perfection of) the security interest held by Bank in and to the personalty and other collateral of Borrower described in the Deed of Trust (with evidence of filing thereon), together with all amendments thereto;
- (d) The Assignment of Management Agreement, and related consents, if any, in the form executed by Borrower and Management Agent in favor of Bank;
- (e) The Assignment of Construction Contracts, the Assignment of Architectural Agreements and Plans and Specifications, any Assignment of Engineering Agreements, the [Assignment of Modular Supply Contract] and related consents fully executed by the architect, the contractor or contractors, any applicable engineer(s), the modular unit supplier and any other consenting parties in connection with the Project (the foregoing documents, together with the Assignment of Management Agreement and related consents thereto, to be collectively referred to herein as the "**Assignment of Contracts**");
- (f) Any subordination agreement(s) related to subordinate financing, if any, regulatory agreements, restrictive covenants or other restrictions, purchase options and/or rights of first

refusal related to the Borrower or the Project, if any, including, without limitation, the Subordination Agreements, as the same may be described in the Bank Loan Agreement, with evidence of recording thereon;

- (g) The Hazardous Materials Indemnity Agreement (Unsecured - Borrower) (the “**Environmental Indemnity**”) executed by Borrower;
- (h) The Assignment of Housing Assistance Payments Contract, Agreement to Enter Into Housing Assistance Payments Contract and Housing Assistance Payments executed by Borrower and the consent thereto executed by the Los Angeles County Development Authority (“**Subsidy Provider**”) in favor of Bank;
- (i) Each modification, amendment, assumption, release, or waiver letter, if any, executed by Bank (if legally required) and/or Borrower (if legally required), pertaining to any of the terms, covenants or conditions of the Bank Loan, any obligor under the Bank Loan and/or any collateral for the Bank Loan under the Purchased Documents, with evidence of recording where appropriate; and
- (j) Except for the Terminated Documents (as defined in the Assignment of Loan Documents), all other instruments, agreements, documents or reports (other than documents, memos, notes or reports prepared by employees, agents or representatives of Bank solely for the internal use of Bank) affecting or relating to the Loan which were executed and delivered to Bank as security for the Loan, including but not limited to any and all security agreements, collateral assignments, pledge agreements, financial agreements, corporate authorizations, limited liability company certificates, partnership consents and other corporate, limited liability company or partnership documents, legal opinion letters from Borrower's counsel, estoppel letters addressed to Borrower in connection with the Purchased Documents, estoppel letters from Borrower, tenants on the Property or governmental authorities or agencies, operating reports, environmental reports, site plans, surveys, soil and substrata studies, architectural drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans, external written correspondence, insurance certificates or policies, appraisals, financial statements of Borrower, any constituent parties of Borrower, and any other obligors under the Loan.

1.3 Purchased Documents. Copies of the Purchased Documents (or to the extent not yet executed, forms thereof) have been delivered to, and approved by, CCRC.

1.4 Vesting. Upon the execution, delivery and assignment (to the extent applicable) of the Governmental Lender Note and other Funding Loan Documents and Permanent Loan Documents on the Conversion Date (including, without limitation, upon recordation of the Assignment of Deed of Trust in the Official Records and delivery to CCRC of the Purchased Documents), the Funding Lender's right, title and interest in the Funding Loan, the Governmental Lender Note, the Loan, the Borrower Note, the Deed of Trust and the other Purchased Documents shall immediately vest in CCRC and the right, title and interest of the Bank as beneficiary under the Deed of Trust and “Senior Lender” (or its equivalent) under the Subordination Agreements shall immediately vest in Fiscal Agent for the benefit of CCRC.

1.5 Terminated Documents. Any foregoing provisions of this Article 1 to the contrary notwithstanding, the Terminated Documents (defined in the Assignment of Loan Documents) shall not be deemed Purchased Documents sold to CCRC or Fiscal Agent, shall not be delivered to CCRC or Fiscal Agent, and substantially all of the provisions of such Terminated Documents shall be released and terminated upon the Conversion Date (but only if the Conversion occurs), pursuant to the Bank Loan Agreement and a Release and Termination Agreement, to be executed by Borrower, Bank and CCRC in substantially the form attached hereto as Exhibit J (the “**Release and Termination Agreement**”); provided, however, specific provisions of the Terminated Documents may not be terminated and shall survive thereafter if expressly provided in said Terminated Documents.

1.6 Non-Transferable Documents. Bank, Fiscal Agent and CCRC acknowledge the Hazardous Materials Indemnity Agreement (Unsecured - Guarantor) executed by Guarantor to Bank is non-transferable as of the Conversion Date.

1.7 Option to Purchase Loan. Notwithstanding anything to the contrary contained herein, at its sole option, CCRC may elect to purchase the Bank Loan in lieu of the Funding Loan upon delivery of notice thereof to Governmental Lender, Fiscal Agent, Borrower and Bank not less than thirty (30) days prior to the anticipated Conversion Date (the "**Loan Purchase Option**"). Upon CCRC's exercise of the Loan Purchase Option, (a) all the tendered Bonds shall be redeemed in full and cancelled on the Conversion Date in accordance with the terms of the Indenture, (b) the Bank Loan, the Bank Loan Agreement, the Bank Note, the Deed of Trust and the other Purchased Documents shall be assigned by Bank to, and assumed by, CCRC upon CCRC's purchase of the Bank Loan in lieu of execution of the Funding Loan Documents, Borrower Loan Agreement and Borrower Note, (c) the Bank Loan Agreement, the Bank Note, the Deed of Trust and the other Purchased Documents shall be modified, amended and/or restated, and Borrower shall execute with or in favor of CCRC the Additional Documents, as applicable and as reasonably required by CCRC, to account for CCRC's purchase of the Bank Loan in lieu of the Funding Loan and to substantially conform to the contemplated terms of the Permanent Loan, including, without limitation, those set forth in the forms of the Permanent Funding Agreement, the Borrower Note and the Replacement Reserve Agreement, and (d) the Indenture and the Construction Period Loan Documents shall be released and terminated (except for any provisions thereof that are expressly stated to survive termination thereof). In the event that CCRC exercises the Loan Purchase Option, to the extent applicable, all references in this Agreement to the Funding Loan, the Loan, the Governmental Lender Note, the Borrower Note and the Funding Loan Documents shall be construed to refer to the Bank Loan, the Bank Note and the Bank Loan Documents and the terms of this Agreement shall be construed to the maximum extent possible in order to address CCRC's purchase of the Bank Loan in lieu of the Funding Loan. Governmental Lender, Fiscal Agent, Borrower and Bank shall execute and deliver any additional documents or take such other actions as may be reasonably required in order to effect the cancellation and termination of the Bonds, Funding Loan and Loan and sale of the Bank Loan to CCRC as contemplated hereunder, including, without limitation, modification of the forms of Assignment of Deed of Trust and Assignment of Loan Documents to reflect the sale of the Bank Loan to CCRC in lieu of the Funding Loan.

## ARTICLE 2. PURCHASE PRICE

2.1 Purchase Price.

- (a) CCRC Purchase Price. Provided that all of the Conversion Conditions set forth in Article 3 of this Agreement are satisfied, CCRC shall purchase the Funding Loan at par, in a principal amount of \$[\_\_\_\_\_]00 (the "**CCRC Purchase Price**"), on the Conversion Date, subject to adjustment as provided in Section 2.1(b) below, which CCRC Purchase Price shall be deposited by Fiscal Agent in the Construction Loan Prepayment Fund and applied on behalf of Borrower to repay the Bank Loan. To the extent that the CCRC Purchase Price is not sufficient to pay in full all principal, interest and other amounts outstanding under the Bank Loan on the Conversion Date, then on or before the Conversion Date, Borrower shall have delivered to Fiscal Agent for deposit in the Construction Loan Prepayment Fund additional funds in the amount necessary for Fiscal Agent to repay on behalf of Borrower the balance of such principal, interest and other amounts outstanding under the Bank Loan on the Conversion Date (each, a "**CCRC Purchase Price Shortfall Deposit**").
- (b) Modification of CCRC Purchase Price. As of the Conversion Date, in connection with CCRC's underwriting requirements and review of the Funding Loan and Loan, the Loan shall not exceed (1) [\_\_\_\_\_] percent (\_\_\_%) of the appraised Section 8 market value at stabilized occupancy using (i) for the [one hundred eighteen (118)] Project units subject to the HAP Contract (as defined in subsection (ee) of Exhibit K) (the "**Subsidized Units**") rents that are the lesser of the rents under the HAP Contract or the appraised market rents; and (ii) appraised restricted rent value for all other units at the Project (the "**Non-Subsidized Units**"), that are at least ten

percent (10.00%) below appraised market rental rates, and (2) a decontrolled market value of the Property such that, based upon the decontrol-rent market value, the loan-to-decontrol value ratio shall not be more than [\_\_\_\_\_] percent (\_\_\_\_%). "**Decontrol value**" shall mean the estimated value after a loan foreclosure based upon Section 42(n)(b)(e)(ii) of the Code, as amended, assuming restricted rents to market rents over the three year deregulation period (as all such values shall be determined by CCRC in its reasonable discretion), and the ratio of Net Income for the Property to Debt Service for the Permanent Loan (the "**Debt Service Coverage Ratio**"), shall be not less than [\_\_\_] to 1.00 for a period of at least ninety (90) consecutive days immediately prior to the Conversion Date, inclusive of all property management fees for the Project (the "**Conversion DSCR**"). If this Conversion DSCR requirement is not met, then as a condition to CCRC's purchase of the Funding Loan, Borrower shall make a CCRC Purchase Price Shortfall Deposit with Fiscal Agent to be applied in accordance with the requirements of Section 2.1(a) above in an amount sufficient in CCRC's reasonable judgment to reduce the CCRC Purchase Price to meet this Conversion DSCR requirement.

- (c) Except to the limited extent expressly provided in that certain Promissory Note (Delivery Assurance Fee) dated as of even date herewith (the "**Delivery Assurance Note**"), executed by Borrower to the order of CCRC, if, for any reason, including, but not limited to any principal prepayment made by Borrower under or pursuant to this Agreement, the Construction Period Loan Documents or the Bank Loan Documents (whether voluntary or involuntary, by operation of law or otherwise), the CCRC Purchase Price is reduced by more than ten percent (10%) of the CCRC Purchase Price, then, as an additional Conversion Condition, Borrower shall pay to CCRC an amount equal to the "**Delivery Assurance Fee**" (calculated as provided in the Delivery Assurance Note).

2.2 Payment of CCRC Purchase Price. The CCRC Purchase Price shall be payable at the Conversion Date by wire transfer of immediately available funds from CCRC to [Title Company for remittance to Fiscal Agent] as escrow closes.

2.3 Fees To Be Paid to CCRC. Borrower shall pay the following fees to CCRC on or prior to the Closing Date and upon execution of this Agreement as provided below:

- (a) CCRC Loan Fee. CCRC shall have received a loan fee equal to \$[\_\_\_\_\_] .00 and an application fee equal to \$2,000.00 (collectively, the "**CCRC Loan Fee**"). The CCRC Loan Fee shall be paid to CCRC upon execution of this Agreement. The CCRC Loan Fee shall not be refundable. Notwithstanding the foregoing, however, if CCRC is unable to receive the funds from its members required to purchase the Funding Loan in order to make the Permanent Loan for any reason related to (i) governmental credit restrictions or other laws or regulations enacted subsequent to the date of CCRC's commitment to purchase the Funding Loan in order to fund the Permanent Loan, or (ii) due to any reason beyond CCRC's reasonable control, including force majeure, war, riot, civil disturbance, governmental actions of any kind, applicable laws or regulations, or other actions of third parties not controlled by CCRC, CCRC shall be excused from any obligation to purchase the Funding Loan in order to fund the Permanent Loan and any liability hereunder or otherwise in connection with CCRC's commitment to purchase the Funding Loan. In such event, CCRC shall provide Governmental Lender, Fiscal Agent, Bank and Borrower with thirty (30) days written notice of its inability to receive funds from its members, and Borrower shall be entitled to a full refund of the CCRC Loan Fee.
- (b) Other Fees. In addition, Borrower shall pay to CCRC all other out of pocket costs of CCRC, such as closing costs, appraisal fees, legal fees, environmental review and consulting fees, and all other costs related to this transaction.

2.4 Delivery Assurance. Borrower is obligated to deliver to CCRC the Delivery Assurance Note and that certain Delivery Assurance Multifamily Leasehold Deed of Trust, Security Agreement and Fixture Filing (the "**Delivery Assurance Deed of Trust**") dated as of even date with the Delivery Assurance Note,

executed by Borrower for the benefit of CCRC, encumbering Borrower's interests and estate(s) in the Property. The Delivery Assurance Deed of Trust shall be subordinate to liens securing all non-Borrower affiliate construction and acquisition financing for the Project, including, without limitation, liens in connection with the Bank Loan. The conditions set forth in this Agreement are intended to ensure delivery of the Funding Loan to CCRC by Borrower on or prior to the Termination Date (as defined below). In the event that (1) CCRC breaches its obligations hereunder, or (2) the Funding Loan (or in the event of CCRC's exercise of the Loan Purchase Option, the Loan) shall be purchased by CCRC as contemplated in this Agreement, the Delivery Assurance Note shall be cancelled, and the Delivery Assurance Deed of Trust shall be released and reconveyed. If, however, the Funding Loan (or Loan, as applicable) is not purchased as set forth in this Agreement for any reason other than CCRC's breach of its obligations hereunder, then CCRC shall be entitled (x) to collect under the Delivery Assurance Note, and (y) to keep in place the Delivery Assurance Deed of Trust until CCRC is repaid in full the amount enumerated therein, and CCRC shall not be obligated to subordinate the lien of the Delivery Assurance Deed of Trust to the lien of any take-out, bridge or permanent lender at that time. [Notwithstanding the foregoing, if, prior to Conversion, an FHA-insured mortgage takes the place of the Loan, and CCRC acts as the Multifamily Accelerated Processing lender for such FHA-insured permanent loan and lender, the Delivery Assurance Fee shall be two percent (2.00%) of the CCRC Purchase Price.]

2.5 **LIQUIDATED DAMAGES.** BORROWER ACKNOWLEDGES THAT CCRC HAS ENTERED INTO, AND WILL CONTINUE TO ENTER INTO, OTHER CONTRACTS WITH OTHER PARTIES IN RELIANCE UPON BORROWER'S FULFILLMENT OF BORROWER'S OBLIGATIONS UNDER THIS AGREEMENT. IN THE EVENT BORROWER FAILS TO FULFILL OR OTHERWISE BREACHES THE TERMS, PROVISIONS OR CONDITIONS OF THIS AGREEMENT OR THE CONDITIONS TO CCRC'S PURCHASE OF THE FUNDING LOAN AS SET FORTH HEREIN ARE NEVER MET, AND, AS A RESULT, CCRC DOES NOT PURCHASE THE FUNDING LOAN IN ORDER TO FUND THE PERMANENT LOAN, BORROWER SHALL PAY TO CCRC THE DELIVERY ASSURANCE FEE (AS DEFINED IN THE DELIVERY ASSURANCE NOTE) AS LIQUIDATED DAMAGES (UNLESS THE DELIVERY ASSURANCE NOTE HAS BEEN CANCELLED PURSUANT TO SECTION 2.4 ABOVE), TO COMPENSATE CCRC FOR LOSSES SUSTAINED ON ITS OTHER CONTRACTS, TIME SPENT, LABOR AND SERVICES PERFORMED, LOSS OF INTEREST AND ANY OTHER LOSS WHICH MIGHT BE INCURRED BY CCRC IN CONNECTION WITH THIS TRANSACTION, IT BEING UNDERSTOOD THAT CCRC'S DAMAGES ARE NOT FULLY CAPABLE OF BEING ASCERTAINED AT THIS TIME AND THAT THE DELIVERY ASSURANCE FEE REPRESENTS BORROWER'S AND CCRC'S BEST ESTIMATE AT THIS TIME OF SUCH DAMAGES. IN SUCH EVENT, BORROWER SHALL HAVE NO FURTHER LIABILITY FOR ANY BREACH OF THIS AGREEMENT.

ARTICLE 3.  
CONDITIONS TO PURCHASE

3.1 Conditions to CCRC's Purchase. CCRC's obligation to purchase the Funding Loan at the Conversion Date shall be subject to only the following specific conditions precedent (the "**Conversion Conditions**"):

- (a) Underwriting Documents. CCRC shall have reviewed and approved the financial condition of Borrower, the Property and the Improvements as of the Conversion Date. Borrower shall have submitted to CCRC each of the documents collected with respect to Borrower, any general partners of Borrower, the Property and the Improvements (collectively, the "**Underwriting Documents**") specified in this Agreement, the Construction Period Borrower Loan Agreement, the Bank Loan Agreement, the form of Borrower Loan Agreement attached hereto as Exhibit B, the form of Permanent Funding Agreement attached hereto as Exhibit C, or as otherwise requested by CCRC, each in accordance with the submission deadlines applicable to each such document. In addition, once CCRC has approved any Underwriting Document, any further additions or changes to such Underwriting Document must be resubmitted to CCRC for approval. In this regard, based solely upon the submittals made by Borrower to date, CCRC agrees that (i) all Underwriting Documents required to be submitted prior to the execution of this Agreement have been so submitted and approved by CCRC as of the date of this



Agreement, and (ii) with respect to such Underwriting Documents, no further due diligence, review or approval is required, except as set forth herein. Notwithstanding anything to the contrary in the foregoing, Borrower shall be responsible for collecting and providing to CCRC due diligence documents to be requested by CCRC in connection with determining compliance with satisfaction of the Conversion Conditions set forth in this Section 3.1 and Exhibit K attached hereto. CCRC's sample closing requirements checklist, which provides the typical due diligence information and items required by CCRC as conditions to Conversion is available on CCRC's website, <https://e-ccrc.org>; provided, however, that such checklist is provided only as a sample and may contain items not applicable and omit items applicable to this transaction.

- (b) Compliance with Conversion Conditions. Borrower, Governmental Lender, Fiscal Agent, Bank or any other relevant party shall have complied with the Conversion Conditions set forth herein and in Sections 1.1 and 1.2 and Exhibit K, attached hereto and incorporated herein by reference, to the extent applicable to each such party.
- (c) Purchased Documents; Additional Documents. No material defaults shall have occurred and continue to exist under the Bonds, the Construction Period Loan Documents, the Funding Loan Documents, the Purchased Documents or any of the other Bank Loan Documents. At the Conversion Date, no monetary default shall exist under the Bonds, the Construction Period Loan Documents, the Funding Loan Documents, the Purchased Documents, any of the other Bank Loan Documents or under this Agreement. No material non-monetary default or breach shall have occurred under the Bonds, the Construction Period Loan Documents, the Funding Loan Documents, the Purchased Documents, any of the other Bank Loan Documents or under this Agreement that has not been cured in full prior to the Conversion Date. (i) Governmental Lender, Fiscal Agent and Borrower, as applicable, shall have delivered to CCRC, directly or through Commonwealth Land Title Company (the "**Title Company**"), the original, fully executed Governmental Lender Note and original executed counterparts of the other Funding Loan Documents, the Permanent Funding Agreement and the Replacement Reserve Agreement, (ii) Borrower and Governmental Lender, as applicable, shall have delivered to Fiscal Agent, directly or through Title Company, the original, fully executed Borrower Note and original executed counterparts of the Borrower Loan Agreement, and (iii) Bank shall have delivered to Fiscal Agent or CCRC, as applicable, directly or through Title Company the remainder of the original, fully executed Purchased Documents without any material amendments, changes, modifications, or releases, except as specifically approved in writing by CCRC. Borrower shall have further executed (or caused to be executed) and Bank shall have delivered to Fiscal Agent or CCRC, as applicable, such amendments to the Purchased Documents and/or such additional documents as CCRC may reasonably require (the "**Additional Documents**"). So long as there is no material change to CCRC's underwriting analysis and projections relating to the Property existing at the time of the Closing Date, CCRC shall not be entitled to modify any material economic terms of the Permanent Loan other than potentially resizing the CCRC Purchase Price and the corresponding principal amount of the Permanent Loan pursuant to the terms of this Agreement without the prior consent of Borrower.
- (d) Payment of CCRC Fees and All Other Costs. Borrower shall have paid CCRC any and all fees in accordance with the terms and conditions of this Agreement, the Borrower Loan Agreement and the Permanent Funding Agreement. All outstanding costs, expenses, taxes and attorneys' fees incurred by CCRC as of the Closing Date and in connection with the purchase of the Funding Loan shall have been paid by Borrower to CCRC, including (without limiting the generality of the foregoing) escrow fees and costs, recording costs, title insurance premiums, flood certification, tax service contract, appraisal fees, mortgage tax (if any), fees paid to attorneys in connection with preparation of documents, or providing legal advice or opinions and all other fees, costs and expenses contemplated by this Agreement, the Borrower Loan Agreement, the Permanent Funding Agreement or the other Permanent Loan Documents.
- (e) No Change in Borrower. Except for those changes in the identity of Borrower anticipated and set forth in the form of the Partnership Agreement approved by CCRC, or as otherwise set forth

in the Permanent Funding Agreement or the other Permanent Loan Documents, no change shall have occurred with respect to the identity, good standing or existence of Borrower or any general partner of Borrower since the date of this Agreement. In addition, none of the following shall have occurred: (a) a material breach, that remains uncured after the expiration of all applicable cure periods, of any of Borrower's covenants, representations and/or warranties set forth in the Construction Period Loan Documents, the Bank Loan Documents, the Funding Loan Documents, the Permanent Loan Documents or any other financing instruments affecting the Property; (b) any materially adverse change in the business, properties, or financial condition of Borrower or any of Borrower's general partners since the date of this Agreement; or (c) any pending or overtly threatened litigation against Borrower, any of Borrower's general partners, or the Property, which may have any materially adverse effect on the Property or the financial condition of Borrower.

- (f) Loan Purchase Documents. Borrower shall have duly executed and delivered a Borrower's Certificate (the "**Borrower's Certificate**"), substantially in the form attached hereto as Exhibit H, certifying that all information contained therein shall be true and correct, and an original counterpart of the Release and Termination Agreement in the form attached as Exhibit J executed as of the Conversion Date. Bank shall have duly executed and delivered (i) an original Certificate of Bank, substantially in the form attached hereto as Exhibit I (the "**Bank Certificate**"), certifying that all information contained therein shall be true and correct, (ii) an original, notarized Assignment of Deed of Trust, in form ready for recordation in the Official Records and substantially conforming to the form attached hereto as Exhibit F, (iii) an original Assignment of Loan Documents, substantially in the form attached hereto as Exhibit G, and (iv) an original counterpart of the Release and Termination Agreement in the form attached as Exhibit J, each executed as of the Conversion Date.
- (g) Borrower's Counsel Legal Opinion. CCRC shall have received (i) an original opinion of Borrower's legal counsel addressed to Bank, [Governmental Lender, Fiscal Agent] and CCRC, dated as of the Closing Date, together with a bring-down of such opinion letter to the Conversion Date, (ii) a reliance letter from Borrower's legal counsel, authorizing CCRC to rely on the opinion(s) delivered to Bank, [Governmental Lender and Fiscal Agent] by Borrower's legal counsel at the Closing Date, together with a bring-down of the opinions rendered therein to the Conversion Date, or (iii) a new original opinion of Borrower's legal counsel, addressed to CCRC and dated as of the Conversion Date. Such opinion(s) shall be in form and substance reasonably satisfactory to CCRC, and shall address the legality, validity, authorization and enforceability of the Loan, the Purchased Documents and the other Permanent Loan Documents.
- (h) Tax Counsel Legal Opinion. CCRC shall have received the original or a copy of the legal opinion letter addressed to Governmental Lender from Tax Counsel in connection with the issuance of the Bonds and Governmental Lender Note plus an update thereof in favor of CCRC in form and substance reasonably satisfactory to CCRC, dated as of the Conversion Date and opining that the tax exempt status of Bonds, as converted to the Governmental Lender Note, will not be adversely affected by the purchase of the Governmental Lender Note, the execution and delivery of the Funding Loan Documents and assignment of the Purchased Documents as contemplated by this Agreement.

3.2 Conditions to Governmental Lender's Sale. Governmental Lender's obligation to sell the Funding Loan at the Conversion Date shall be subject to only the following specific conditions precedent:

- (a) Payment of CCRC Purchase Price. Fiscal Agent shall have received the CCRC Purchase Price.
- (b) Payment by Borrower of Bank Loan Balance. If the CCRC Purchase Price is less than the amount of principal, accrued interest and other costs and expenses outstanding under the Bank

Loan as of the Conversion Date, Borrower shall have made a CCRC Purchase Price Shortfall Deposit with Fiscal Agent.

- (c) Governmental Lender's and Fiscal Agent's Costs. Governmental Lender's and Fiscal Agent's respective costs, expenses, taxes and attorneys' fees in connection with the issuance of the Bonds and execution of the Construction Period Loan Documents, as well as the mandatory tender of such Bonds, the conversion of the Bonds to the Governmental Lender Note, the sale of the Funding Loan to CCRC on the Conversion Date and all associated actions as contemplated under the terms of this Agreement, the Indenture and the Funding Loan Documents, shall have been paid as otherwise mutually agreed by Borrower and Bank in the Construction Period Loan Documents and Borrower Loan Agreement.

3.3 Conditions to Bank's Assignment of the Purchased Documents. Bank's obligation to assign the Purchased Documents to Fiscal Agent and CCRC, as applicable, at the Conversion Date shall be subject to only the following specific conditions precedent:

- (a) Repayment of Bank Loan. Bank shall have received funds sufficient to pay in full all amounts outstanding under the Bank Loan.
- (b) Bank's Costs. Bank's costs, expenses, taxes and attorneys' fees in connection with the closing of the Bank Loan and the assignment of the Purchased Documents to CCRC on the Conversion Date shall have been paid as otherwise mutually agreed by Borrower and Bank in the Bank Loan Agreement.
- (c) Release of Set Aside Letter. Bank shall have received a full and unconditional release of any set aside letters, letters of credit or similar instruments issued by Bank to any insurance company, governmental agency or authority or any other person or entity in connection with the construction of the Improvements.
- (d) Release and Termination Agreement. Borrower and CCRC shall have executed and delivered to Bank original counterparts of the Release and Termination Agreement dated as of the Conversion Date.

#### ARTICLE 4. CONVERSION

4.1 Time of Conversion. The closing of the sale of the Funding Loan by Governmental Lender to CCRC, the execution and delivery of the Governmental Lender Note and other Funding Loan Documents, the Borrower Loan Agreement, the Permanent Funding Agreement, the Borrower Note, the Replacement Reserve Agreement, the Additional Documents, the Assignment of Loan Documents and the Assignment of Deed of Trust (and the recordation thereof), and the repayment in full of the Bank Loan (collectively, the "**Conversion**"), shall occur on or before a date no later than ten (10) Business Days following satisfaction of all of the conditions set forth in Article 3 and Exhibit K of this Agreement (such date, the "**Conversion Date**"). The precise date and time of the Conversion Date shall be mutually determined by Bank and CCRC; provided, however, that the Conversion Date shall not occur later than [\_\_\_\_\_] [**NOTE: 42 months from construction loan closing**] (as the same may be extended hereunder, the "**Termination Date**"), unless extended pursuant to the mutual agreement of Bank and CCRC. If the Conversion Date has not occurred by the Termination Date as a result of the failure of Borrower, Governmental Lender, Fiscal Agent or Bank to satisfy any condition for the benefit of CCRC set forth in this Agreement, then CCRC shall have the exclusive right in its sole and absolute discretion, to terminate this Agreement.

4.2 Procedure for Conversion. The Title Company shall cause the sale of the Funding Loan to CCRC to close by: (a) delivering the Governmental Lender Note, the other Funding Loan Documents, the Permanent Funding Agreement, the Replacement Reserve Agreement, the other Purchased Documents, the Assignment of Loan Documents and the Additional Documents to CCRC, if not previously delivered to CCRC; (b) delivering the Borrower Loan Agreement, the Borrower Note and an original Assignment of Deed

of Trust to Fiscal Agent; (c) recording a fully executed original of the Assignment of Deed of Trust in the Office of the County Recorder where the Property is located; (d) filing with the Secretary of State a UCC-3 form of assignment executed by Bank and assigning Bank's interest under the UCC-1 Financing Statement(s) to Fiscal Agent; (e) issuing the CCRC Title Policy, including, but not limited to, the 104.1 endorsement; (f) paying Bank in immediately available funds: (i) the CCRC Purchase Price and any CCRC Purchase Price Shortfall Deposit, in both cases remitted to Title Company by Fiscal Agent on behalf of Borrower, and (ii) the payment from Borrower of any other fees and charges owed to Bank, if any; (g) delivering an original Assignment of Deed of Trust and an original Assignment of Loan Documents to Bank; (h) delivering to CCRC an original opinion of legal counsel for the Borrower to CCRC or reliance letter (together with the appropriate bring-down letter), as set forth in Section 3.1 above; (i) delivering to CCRC an original opinion of Tax Counsel or reliance letter (together with the appropriate bring-down letter), as set forth in Section 3.1 above; and (j) otherwise complying with the terms of the respective escrow instructions from CCRC and Bank to the Title Company.

4.3 Closing Costs. All costs, expenses, taxes and attorneys' fees of Governmental Lender, Fiscal Agent, Bank and CCRC in connection with closing the Bonds, the Loan, the Bank Loan, the Funding Loan and the Permanent Loan and the sale of the Funding Loan to CCRC shall be paid by Borrower at or prior to the Closing Date or Conversion Date, as applicable, including (without limiting the generality of the foregoing) escrow fees and costs, recording costs, title insurance premiums, tax service, appraisal fees, mortgage tax, reasonable fees paid to attorneys in preparation of documents or providing legal advice or opinions.

## ARTICLE 5. REPRESENTATIONS AND WARRANTIES

5.1 Representations of Governmental Lender. Governmental Lender represents and warrants to CCRC and Bank as of the date hereof that:

- (a) Sole Owner. Upon the mandatory tender of the Bonds by the bondholders to the Fiscal Agent, Governmental Lender shall have the right and power to convert the Bonds to the Governmental Lender Note as contemplated under this Agreement and shall be the sole legal and beneficial owner of the Funding Loan, free and clear of any and all liens and security interests in favor of any other party.
- (b) Authority. Governmental Lender, and the officers acting on its behalf, have the right, power, legal capacity, and authority to execute and deliver this Agreement and all instruments and other documents required to be executed and delivered by Governmental Lender in connection herewith.
- (c) Binding Obligation. This Agreement constitutes the valid, legal and binding agreement of Governmental Lender, and is enforceable against Governmental Lender in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and/or by general equitable principles which may limit the availability of equitable remedies, including without limitation, the remedy of specific performance.

5.2 Representations of Fiscal Agent. Fiscal Agent represents and warrants to CCRC and Bank as of the date hereof that:

- (a) Authority. Fiscal Agent, and the officers acting on its behalf, have the right, power, legal capacity, and authority to execute and deliver this Agreement and all instruments and other documents required to be executed and delivered by Fiscal Agent in connection herewith.
- (b) Binding Obligation. This Agreement constitutes the valid, legal and binding agreement of Fiscal Agent, and is enforceable against Fiscal Agent in accordance with its terms, except as such

enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and/or by general equitable principles which may limit the availability of equitable remedies, including without limitation, the remedy of specific performance.

5.3 Representations of Bank. Bank represents and warrants to CCRC, Governmental Lender and Fiscal Agent as of the date hereof that:

- (a) Sole Owner. Bank is the sole legal and beneficial owner of the Bank Loan and Bank Security Documents, free and clear of any and all liens and security interests in favor of any other party.
- (b) Authority. Bank, and the officers acting on its behalf, have the right, power, legal capacity, and authority to execute and deliver this Agreement and all instruments and other documents required to be executed and delivered by Bank in connection herewith.
- (c) Binding Obligation. This Agreement constitutes the valid, legal and binding agreement of Bank, and is enforceable against Bank in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and/or by general equitable principles which may limit the availability of equitable remedies, including without limitation, the remedy of specific performance.
- (d) Brokers. Bank has not engaged any broker or finder or incurred or become obligated to pay any broker's commission or finder's fee in connection with the transactions contemplated by this Agreement.

5.4 Representations of CCRC. CCRC represents and warrants to Governmental Lender, Fiscal Agent and Bank as of the date hereof that:

- (a) Authority. CCRC and the officers acting on its behalf, have all requisite power and authority to execute and deliver, and to perform all of its obligations under this Agreement and under all instruments and other documents to be executed and delivered by CCRC in connection herewith.
- (b) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of CCRC enforceable against CCRC in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and/or by general equitable principles which may limit the availability of equitable remedies, including without limitation, the remedy of specific performance.
- (c) Brokers. CCRC has not engaged any broker or finder or incurred or become obligated to pay any broker's commission or finder's fee in connection with the transactions contemplated by this Agreement.
- (d) Independent Decision. CCRC represents that it has made and will make independently and without reliance on Governmental Lender, Fiscal Agent or any other party, or upon the officers, directors, agents or employees of Governmental Lender, Fiscal Agent or any other party, and based on such documents and information as it has deemed appropriate, including, without limitation, the Underwriting Documents, its own credit and legal evaluation of the Funding Loan, Loan and Borrower, and valuation of the Property, and the decision to enter into this Agreement. Neither Governmental Lender nor its officers, directors, agents or employees shall be deemed an agent for CCRC or be deemed to have assumed any fiduciary obligation toward or relationship of agency with or for CCRC in connection with the Permanent Loan or the Underwriting Documents.

5.5 Representations of Borrower. As of the date hereof, Borrower represents and warrants to Governmental Lender, Fiscal Agent, Bank and CCRC that:

- (a) Authority. Borrower has all requisite power and authority to execute and deliver, and to perform all of its obligations under this Agreement and under all instruments and other documents to be executed and delivered by Borrower in connection herewith. The transactions contemplated by this Agreement are and will be in all respects valid and legal. Borrower warrants that all information in the loan application and the financial statements and other documents submitted by, or on behalf of, Borrower in connection with the Bonds, the Loan, the Funding Loan, this Agreement and/or the Property, including, without limitation, the Underwriting Documents (hereinafter referred to collectively as the "**Application Documents**") is correct in all material respects, that no material information is omitted from the Application Documents, that there has been no materially adverse change in any condition or fact stated in the Application Documents between the date of the applicable document and the date hereof.
- (b) Organization. If a partnership or corporation, Borrower is duly organized and is in good standing pursuant to the laws of the State of California, is in full compliance with all requirements for its formation and existence and has continuously been in existence and transacting business under the name "VA Building 402 LP" from the date of its formation.
- (c) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of Borrower enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and/or by general equitable principles which may limit the availability of equitable remedies, including without limitation, the remedy of specific performance.
- (d) No Actions, Suits or Proceeding. There are no actions, suits or proceedings at law or in equity now pending or, to Borrower's best knowledge, overtly threatened against or affecting the Property or Borrower, its sponsor, or any of Borrower's general partners, which would have a material adverse effect on the Property or the financial condition of Borrower, and there are no facts now in existence that, with the giving of notice or the lapse of time, or both, would form the basis for any such action, suit or proceeding. Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental agency.
- (e) No Voluntary Bankruptcy. Neither Borrower nor its general partners have: (i) filed a petition for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (ii) filed a pleading or an answer in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition's material allegations regarding Borrower's (or its general partner's) insolvency; (iii) made a general assignment for the benefit of creditors; or (iv) applied for, or suffered the appointment of, a receiver, trustee, custodian or liquidator of Borrower (or its general partners) or any of their respective property.
- (f) No Involuntary Bankruptcy. No involuntary petition under the Bankruptcy Code or under any other debtor relief law has been filed against Borrower or its general partners or in any way restrains or limits Borrower or its general partners or Governmental Lender, Fiscal Agent, Bank or CCRC, regarding the Bonds, the Funding Loan, the Loan or the Property.
- (g) FIRPTA Compliance. Borrower is a "United States Person" within the meaning of Section 7702(a)(30) of the Internal Revenue Code of 1986, as amended.
- (h) Affiliation of Parties. Borrower is not affiliated, directly or indirectly, with Governmental Lender, Fiscal Agent, Bank, CCRC or any other party to the documents or agreements evidencing, securing or related to the Bonds, the Funding Loan, the Loan, or with any of the respective subsidiaries, affiliates or officers of Governmental Lender, Fiscal Agent, Bank, CCRC or any

other party to documents or agreements evidencing, securing or related to the Bonds, the Funding Loan or the Loan.

- (i) Brokers. Borrower has not engaged any broker or finder or incurred or become obligated to pay any broker's commission or finder's fee in connection with the Bonds, the Funding Loan, the Loan or the transactions contemplated by this Agreement.

5.6 Disclaimer.

- (a) Obligations of Bank. Notwithstanding anything to the contrary in this Agreement, Bank shall have no obligation to assign the Purchased Documents to Fiscal Agent and CCRC, as applicable, on the Conversion Date if Borrower fails to satisfy Bank's requirements or Bank reasonably determines that any condition to CCRC's purchase of the Funding Loan in accordance with this Agreement is not capable of being satisfied as required under this Agreement.
- (b) Obligations of CCRC. Notwithstanding anything to the contrary in this Agreement, CCRC shall have no obligation to purchase the Funding Loan if Governmental Lender, Fiscal Agent, Bank or Borrower fails to satisfy CCRC's requirements to purchase the Funding Loan or CCRC reasonably determines that any condition to CCRC's purchase of the Funding Loan in accordance with this Agreement or any other such document is not capable of being satisfied as required under this Agreement.

ARTICLE 6.  
COVENANTS OF GOVERNMENTAL LENDER, FISCAL AGENT AND BANK

6.1 Modification of Loan; Release of Security. Without the prior written consent of CCRC (which consent shall not be unreasonably withheld or delayed), Bank will not modify, amend, cancel, extend, release, waive or otherwise change in any manner any of the terms, covenants, conditions or obligors under any of the Purchased Documents in any material respect to the extent that they apply to the Permanent Loan. Without the prior written consent of CCRC or except as otherwise contemplated by the Purchased Documents, none of Governmental Lender, Fiscal Agent or Bank shall cause or permit the subordination of the Loan or the Deed of Trust or the release of any security for the Funding Loan or the Loan. ANY BREACH OF COVENANTS CONTAINED IN THIS SECTION 6.1 WHICH ARE MATERIAL TO CCRC'S PERMANENT LOAN UNDERWRITING WILL, AT THE SOLE AND ABSOLUTE DISCRETION OF CCRC RESULT IN THE TERMINATION OF THIS AGREEMENT. CCRC'S SOLE AND EXCLUSIVE REMEDY FOR SUCH BREACH SHALL BE THE TERMINATION OF THIS AGREEMENT AND ENTITLEMENT TO ANY FEE UNDER THE TERMS OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY DELIVERY ASSURANCE FEE TO WHICH CCRC IS ENTITLED UNDER THE DELIVERY ASSURANCE NOTE.

6.2 Pendency of Action. Upon actual knowledge thereof, Governmental Lender, Fiscal Agent and Bank, as applicable, shall promptly notify CCRC of the institution or pendency of any action, suit, or proceeding against or affecting the Bonds, the Indenture, the Loan, the Construction Period Loan Documents, the Funding Loan, the Bank Loan, the Bank Loan Documents, the Property or Improvements, the Borrower, or any of Borrower's general partners, and in each case, shall deliver to CCRC copies of all notices and other writings relating to said actions promptly upon receipt thereof.

6.3 Transfer of Loans. Prior to the Conversion Date or termination of this Agreement, (a) neither Governmental Lender nor Fiscal Agent shall transfer, assign, sell, convey, hypothecate, or otherwise alienate the Funding Loan or Loan or negotiate or attempt to negotiate the transfer, assignment, sale, conveyance, hypothecation, or other alienation of the Funding Loan or Loan, and (b) Bank shall not transfer, assign, sell, convey, hypothecate, or otherwise alienate the Bank Loan or negotiate or attempt to negotiate the transfer, assignment, sale, conveyance, hypothecation, or other alienation of the Bank Loan.

ARTICLE 7.  
DEFAULT AND REMEDIES

7.1 Default by Bank. Bank shall be in default hereunder upon the occurrence of any one or more of the following events:

- (a) any of Bank's representations or warranties set forth in this Agreement prove to be untrue or inaccurate in any material respect; or
- (b) Bank shall fail to meet, comply with or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement.

In the event of a default by Bank hereunder (other than a breach by Bank of the covenants contained in Section 6.1 above), CCRC and/or Borrower may, each at its sole option, independently or collectively, do any or all of the following: (i) bring an action for damages at law or equity against Bank; and/or (ii) enforce specific performance of this Agreement against Bank.

7.2 Default by CCRC. CCRC shall be in default hereunder upon the occurrence of any one or more of the following events:

- (a) any of CCRC's representations or warranties set forth in this Agreement are untrue or inaccurate in any material respect; or
- (b) CCRC shall fail to meet, comply with or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement.

In the event of a default by CCRC hereunder, Bank and/or Borrower may, each at its sole option, independently or collectively, do any or all of the following: (i) bring an action for damages at law or equity against CCRC, and/or (ii) enforce specific performance of this Agreement against CCRC. In addition to the other remedies of Bank hereunder, if the Conversion Date does not occur by the Termination Date as a result of non-performance by CCRC of its obligations under this Agreement, Bank may terminate this Agreement; provided that such termination shall not impact any right or remedy that Borrower may have against CCRC under this Agreement.

7.3 Default by Borrower. Borrower shall be in default hereunder upon the occurrence of any one or more of the following events:

- (a) any of Borrower's representations or warranties set forth in this Agreement are materially untrue or inaccurate in any material respect on the date when made; or
- (b) Borrower shall fail to meet, comply with or materially perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement.

In the event of a default by Borrower hereunder, and if such default is not cured within ten (10) days after written notice to the Borrower, the sole and exclusive remedy of CCRC shall be to terminate this Agreement and collect from Borrower, as liquidated, final and complete damages, the "Delivery Assurance Fee" as defined and described in the Delivery Assurance Note. The parties agree that damages in case of a default by Borrower are difficult to ascertain and that the liquidated damages stated in this Section are not intended to represent a penalty but are the best estimate of such damages to CCRC by the Borrower. Furthermore, in the event of a default by Borrower hereunder, Governmental Lender, Fiscal Agent and Bank shall have all the rights and remedies available to Governmental Lender, Fiscal Agent and Bank, respectively, under the Construction Period Loan Documents and the Bank Loan Documents, as applicable.

Notwithstanding anything to the contrary contained herein, Borrower's limited partner(s) shall have the right but not the obligation to cure a default of Borrower hereunder, and any such cure tendered by Borrower's



limited partner(s) shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

7.4 Termination Date. In addition to the other remedies of CCRC hereunder, if the Conversion Date does not occur by the Termination Date as a result of non-performance by Bank, Governmental Lender or Fiscal Agent, then CCRC may terminate this Agreement; provided that such termination shall not impact any right or remedy that Borrower may have against Bank, Governmental Lender or Fiscal Agent under this Agreement.

7.5 Attorney's Fees. If it shall be necessary for either CCRC or Bank to employ an attorney to enforce its rights pursuant to this Agreement because of the default of the other party, the defaulting party shall be fully liable and responsible for and shall reimburse the non-defaulting party for reasonable attorneys' fees.

## ARTICLE 8. NOTICES

8.1 Method of Delivery. All notices and demands given pursuant to the terms hereof shall be given in writing delivered in person, by commercial courier, or by registered or certified mail, return receipt requested, with all postage and fees fully prepaid. Notices shall be considered delivered upon receipt by a person commonly accepting delivery of letters or parcels at the recipient's address, such receipt to be as indicated by the return receipt if the notice was sent by mail; except that, upon an attempt to effectuate service of notice as provided herein, if the party being sent the notice either (a) refuses to accept delivery, or (b) has moved and no notice has been served upon the party sending the notice in question informing it of the recipient's new address, then the party to whom the notice was intended to be served shall be deemed to have received the notice upon the attempt to deliver it at the last address for the intended recipient as to which the sender had notice. Alternatively, notices may be served by facsimile transmission sent to the intended recipient, in which case the notice shall be deemed served upon telephonic or return facsimile acknowledgment by the recipient that a complete and legible copy of the notice has been received. Notices shall be addressed as specified below, subject to the right of either party to change the address for service of notice on it by such party serving a notice upon the other of the new address, except that any change of address to a post office box shall not be effective unless a street address is also specified for use in effectuating personal service.

8.2 Address for Notices.

- (a) The address of Governmental Lender for all purposes under this Agreement and for all notices hereunder shall be:

Los Angeles County Development Authority  
700 West Main Street  
Alhambra, California 91801  
Attention: Vittorio Banez

Facsimile: (626) 943-3818  
Telephone: (626) 586-1668

With a copy to:

Behnaz Tashakorian  
Los Angeles County Counsel  
350 South Figueroa Street  
7<sup>th</sup> Floor  
Los Angeles, California 90071

- (b) The address of Fiscal Agent for all purposes under this Agreement and for all notices hereunder shall be:

U.S. Bank Trust Company, National Association  
633 West 5th Street, 24th Floor  
Los Angeles, California 90071  
Attention: Global Corporate Trust  
Ref: LACDA MF (VA Building 402 2022F)

Facsimile: (213) 453-1019

- (c) The address of Bank for all purposes under this Agreement and for all notices hereunder shall be:

Wells Fargo Bank, National Association  
Community Lending and Investment  
MAC #E2064-092  
333 S. Grand Avenue, 9th Floor  
Los Angeles, California 90071  
Attention: Christian von Merkatz  
Loan No. 1021345

Facsimile: (213) 253-7296  
Telephone: (213) 253-7260

With a copy to:

Wells Fargo Bank, National Association  
550 S. Tryon Street, 23rd Floor  
MAC# D1086-239  
Charlotte, North Carolina 28202-4200  
Manager, CLI Deal Management

- (d) The address of CCRC for all purposes under this Agreement and for all notices hereunder shall be:

California Community Reinvestment Corporation  
100 West Broadway, Suite 1000  
Glendale, California 91210  
Attention: President

Facsimile: (818) 550-9806  
Telephone: (818) 550-9800

- (e) The address of Borrower for all purposes under this Agreement and for all notices hereunder shall be:

VA Building 402 LP  
c/o Thomas Safran & Associates Development, Inc.  
11811 San Vicente Boulevard  
Los Angeles, California 90049  
Attention: President

Facsimile: (310) 820-4888  
Telephone: (310) 207-6986

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, 64th Floor  
Los Angeles, California 90071  
Attention: Nicole Deddens, Esq.

Facsimile: (213) 239-0410  
Telephone: (213) 239-8029

And a copy to:

[Wells Fargo Affordable Housing Community Development Corporation]  
550 S. Tryon Street, 23rd Floor  
MAC# D1086-239  
Charlotte, North Carolina 28202-4200  
Attention: Director of Tax Credit Asset Management

And a copy to:

Cannon Heyman & Weiss LLP  
726 Exchange Street, Suite 500  
Buffalo, New York 14210  
Attention: Constance C. Giessert, Esq.

Facsimile: (716) 856-2311  
Telephone: (716) 856-1700 ext. 324

8.3 Notice to CCRC of Default Under Loan and Bank Loan. Concurrently with the delivery by (a) Governmental Lender or Fiscal Agent to Borrower of any notice of default in connection with the Bonds, the Loan or any of the Construction Period Loan Documents, or (b) Bank to Borrower of any notice of default in connection with the Bank Loan or any of the Bank Loan Documents, Governmental Lender, Fiscal Agent and/or Bank, as applicable, shall send to CCRC a copy of any such notice of default at the address set forth in Section 8.2.

## ARTICLE 9. MISCELLANEOUS

9.1 Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement among the parties regarding the sale and purchase of the Funding Loan, and no oral statements or prior written matter not specifically incorporated herein shall be of any force and effect. No variation, modification, or changes hereof shall be binding on any party hereto unless set forth in a document executed by all parties.

9.2 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and upon their respective legal representatives, successors and assigns. Any assignment of this Agreement by Governmental Lender, Fiscal Agent, Bank or CCRC (other than an assignment involving the sale of all or substantially all of the assets of such institution or in the case of CCRC an assignment by CCRC either (a) to Fannie Mae or Freddie Mac or (b) to a fund established and managed by CCRC or by a limited liability company in which CCRC is the sole member in which all investors/funders are banks, insurance companies or other financial institutions or affiliates of such entities, each of which would be a permitted transferee of the Funding Loan as required under the Funding Loan Agreement and has net assets of not less than \$1 billion) without the consent of the other institutions shall be null and void and of no force and effect.

9.3 Time of Essence. Time is of the essence in the execution and performance of this Agreement and of each provision hereof.

9.4 Terminology. Wherever required by the context, any gender shall include any other gender, the singular shall include the plural, and the plural shall include the singular.

9.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9.6 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

9.7 Attorneys' Fees. In the event of any action at law or in equity in relation to this Agreement, the losing party shall pay the prevailing party's reasonable attorneys' fees and costs.

9.8 Rules of Construction. The parties acknowledge that each party and its counsel have reviewed and commented as to the terms and conditions of this Agreement, and the parties hereby agree that normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or amendments or exhibits hereto.

9.9 Business Day. A "business day" for purposes of this Agreement shall mean a day of the week (excluding Saturday, Sunday or a legal holiday) on which the offices of Bank and CCRC are open to the public for carrying on substantially all business functions. Unless specifically referenced in the Agreement as a business day, all references to "days" shall be to calendar days. If any date set forth in this Agreement for the performance of any obligation or for the delivery of any document or notice should be on other than a business day, then compliance with such obligation or delivery on the next following business day shall be deemed acceptable.

9.10 Counterparts. This Agreement and any exhibits attached hereto requiring signatures may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

9.11 Exhibits. Each of the Exhibits attached hereto is hereby incorporated by reference into this Agreement.

## ARTICLE 10. QFCs

10.1 Acknowledgment Regarding QFCs. The parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "**U.S. Special Resolution Regimes**") in respect of any QFC (as hereinafter defined) (with the provisions below applicable notwithstanding that this Agreement or any QFC related to this Agreement may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

- (a) In the event a Covered Entity (as hereinafter defined) that is party to a QFC (each, a "**Covered Party**") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such QFC and the benefit of such QFC (and any interest and obligation in or under such QFC, and any rights in property securing such QFC) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the QFC (and any such interest, obligation and rights in property) were governed by the laws

of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate (as hereinafter defined) of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights (as hereinafter defined) under this Agreement or any other related document that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the QFC or any other related document were governed by the laws of the United States or a state of the United States.

- (b) As used in this Article, the following terms have the following meanings:
- (i) **“BHC Act Affiliate”** of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.
  - (ii) **“Covered Entity”** means any of the following:
    - (A) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
    - (B) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
    - (C) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).
  - (iii) **“Default Right”** has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.
  - (iv) **“QFC”** has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

[Signature page(s) to follow.]

IN WITNESS WHEREOF, this Loan Purchase Agreement is hereby made as of the date first written above.

Governmental Lender:

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
a public body, corporate and politic, organized and existing  
under the laws of the State of California

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

Dawyn R. Harrison, Acting County Counsel

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

Fiscal Agent:

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,**  
a national banking association,  
as fiscal agent

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

CCRC:

**CALIFORNIA COMMUNITY REINVESTMENT CORPORATION,**  
a California nonprofit public benefit corporation

By:

\_\_\_\_\_  
Maria A. Majczinger  
Senior Vice President



Borrower:

**VA BUILDING 402 LP,**  
a California limited partnership

By: VA Building 402 LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Jordan Pynes  
President

By: Housing Corporation of America,  
a Utah nonprofit corporation,  
its managing general partner

By: \_\_\_\_\_  
Carol Cromar  
President

By: West LA Veterans Collective, LLC,  
a California limited liability company,  
its co-general partner

By: Thomas Safran & Associates Development, Inc.,  
a California corporation,  
its co-manager

By: \_\_\_\_\_  
Jordan Pynes  
President

Bank:

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
a national banking association

By:

\_\_\_\_\_  
Christian von Merkatz  
Vice President

**EXHIBIT A**

**FORM OF FUNDING LOAN AGREEMENT**

*[See Attached.]*

Exhibit A to Loan Purchase Agreement

A-1

**EXHIBIT B**  
**FORM OF BORROWER LOAN AGREEMENT**

*[See Attached.]*

Exhibit B to Loan Purchase Agreement

B-1

**EXHIBIT C**

**FORM OF PERMANENT FUNDING AGREEMENT**

[*See Attached.*]

**EXHIBIT D**

**FORM OF BORROWER NOTE**

[*See Attached.*]

**EXHIBIT E**

**FORM OF ASSIGNMENT OF DEED OF TRUST**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

California Community Reinvestment Corporation  
100 West Broadway, Suite 1000  
Glendale, CA 91210  
Attention: Maria A. Majczinger

**ASSIGNMENT AND ASSUMPTION OF  
DEED OF TRUST AND SUBORDINATION AGREEMENTS**

THIS ASSIGNMENT AND ASSUMPTION OF DEED OF TRUST AND SUBORDINATION AGREEMENTS (this "**Assignment**") is made and entered into as of \_\_\_\_\_, 20\_\_, by WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America ("**Assignor**"), in favor of U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as fiscal agent ("**Assignee**").

RECITALS

A. VA Building 402 LP, a California limited partnership ("**Borrower**") is the owner of the subleasehold estate in that certain real property described in Exhibit A attached hereto (the "**Property**") and the fee simple estate in the improvements located thereon ("**Improvements**" and collectively with the Property, the "**Project**").

B. Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), has issued those certain \$[\_\_\_\_\_] Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Bonds**") pursuant to the terms of that certain Trust Indenture dated as of [\_\_\_\_\_] 1, 2022 (the "**Indenture**"), executed by and between Governmental Lender, in its capacity as Issuer, and Assignee, in its capacity as Trustee, which Bonds were purchased by Wells Fargo Bank, National Association, in its capacity as underwriter ("**Underwriter**"), in accordance with the terms of that certain Purchase Agreement dated as of [\_\_\_\_\_] 2022, executed by and among Governmental Lender, Underwriter and Borrower, which Bonds were further marketed and sold by Underwriter to certain investors pursuant to a public offering as more specifically described in that certain Official Statement dated on or about [\_\_\_\_\_] 2022 relating to the sale of the Bonds. Governmental Lender used the proceeds of such sale to fund a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Loan**") in order to finance a portion of the acquisition, construction and development of the Project. Except for its Reserved Rights (as defined in the Indenture), Governmental Lender assigned to Assignee all of its right, title and interest in, to and under the Loan (including, without limitation, with respect to the loan documents governing, evidencing and securing the Loan (collectively, the "**Construction Period Loan Documents**") pursuant to the terms of the Indenture.

C. Concurrently with the issuance of the Bonds, Assignor made a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Bank Loan**"), the proceeds of which were disbursed by

Exhibit E to Loan Purchase Agreement

Assignor to Assignee on behalf of Borrower from time to time in amounts equal to corresponding disbursements of the Loan, which were deposited by Assignee in the Collateral Fund (as defined in the Indenture) as cash collateral for the Loan. The Bank Loan is secured by the Deed of Trust (as defined below) and certain other loan documents executed by Borrower with or in favor of Assignor (collectively with the Deed of Trust, the "**Bank Security Documents**"). In connection with the Bank Loan, Borrower and certain subordinate lenders executed with or in favor of Assignor the Subordination Agreements (as defined below).

D. Subject to the terms of the Indenture, the Bonds shall be tendered by the bondholders thereof on the Conversion Date (as defined below), and a portion of them shall be converted by Governmental Lender to a physical tax-exempt promissory note in the form of that certain Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Governmental Lender Note**") in the original principal amount of \$[\_\_\_\_], executed by Governmental Lender to the order of California Community Reinvestment Corporation, a California nonprofit public benefit corporation ("**CCRC**"), who has committed to purchase such Governmental Lender Note by funding a loan to Governmental Lender in the original principal amount of \$[\_\_\_\_] (the "**Funding Loan**") on the Conversion Date, subject to the terms and conditions of that certain Loan Purchase Agreement dated as of [\_\_\_\_\_] 1, 2022 (the "**Loan Purchase Agreement**"), executed by and among Governmental Lender, Assignee, Assignor, CCRC and Borrower. Upon such purchase, the Loan will convert to a term loan in an outstanding principal amount of \$[\_\_\_\_] (the "**Permanent Loan**"), and as conditions to and in connection with such purchase, (i) Assignee, CCRC and Borrower, as applicable, shall enter into certain agreements to govern, evidence and secure the Permanent Loan from and after the Conversion Date, (ii) Assignee shall apply the proceeds of the Funding Loan, together with any additional amounts required to be deposited with Assignee by Borrower, to repay on behalf of Borrower all principal, interest and other amounts outstanding under the Bank Loan, and (iii) in consideration of such payment, Assignor shall assign to Assignee for the benefit of CCRC all of its right, title and interest in, to and under the Deed of Trust and the other Purchased Deed of Trust Documents (as defined below), which, in addition to other security assigned to CCRC by Assignor and granted to CCRC by Borrower, shall secure the Permanent Loan from and after the Conversion Date.

E. This Assignment is being executed and delivered in connection with the Conversion, as defined in the Loan Purchase Agreement. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties herein contained, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Assignor hereby grants, assigns, conveys and transfers, without recourse, to Assignee, and its successors and assigns, all right, title and interest of Assignor in and to the following (collectively, the "**Purchased Deed of Trust Documents**"):

- (a) that certain Construction and Permanent Leasehold Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of [\_\_\_\_\_] 2022 (the "**Deed of Trust**"), executed by Borrower for the benefit of Assignor, encumbering the Borrower's Property and recorded on \_\_\_\_\_, 2022 as Instrument No. \_\_\_\_\_ in the Official Records of Los Angeles County, California (the "**Official Records**");
- (b) the other documents described on Schedule I attached hereto (which, along with the other documents described in this Section 1, sets forth all of the documents to be assigned to Assignee by Assignor); and



- (c) each modification, amendment, assumption, release, or waiver letter, if any, executed by Assignor (if legally required) and/or the Borrower (if legally required) of any of the items listed above.

2. Conversion. The date upon which this Assignment is recorded in the Official Records shall constitute the "**Conversion Date**."

3. Assumption. CCRC is purchasing the Funding Loan for a purchase price of \$\_\_\_\_\_.00. Assignee hereby assumes and agrees to perform for the benefit and at the direction of CCRC, from and after the Conversion Date, all liabilities, obligations and duties of Assignor arising from and after the Conversion Date with respect to the documents assigned to Assignee hereunder and set forth in Schedule I hereto.

4. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, this Assignment is hereby made as of the date first written above.

Assignor:

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
a national banking association

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

Assignee:

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,**  
a national banking association,  
as fiscal agent

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

**EXHIBIT A TO ASSIGNMENT OF DEED OF TRUST**

**PROPERTY DESCRIPTION**

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

**SCHEDULE I TO ASSIGNMENT OF DEED OF TRUST**

**PURCHASED DEED OF TRUST DOCUMENTS**

1. Deed of Trust
2. UCC-1 Financing Statement relating to Deed of Trust
3. Any subordination agreements, side letters and other agreements delivered in connection with subordinate financing, regulatory agreements, restrictive covenants or other restrictions, purchase options and rights of first refusal, if any, for the Project (collectively, the “**Subordination Agreements**”), including, without limitation:
  - A. Subordination Agreement (LACDA) executed by the Los Angeles County Development Authority, a public body corporate and politic, Borrower and Assignor, and recorded in the Official Records on \_\_\_\_\_, 2022 as Instrument No. \_\_\_\_\_
  - B. Subordination Agreement ([AB128 Loan]) executed by West LA Veterans Collective, LLC, a California limited liability company, and Borrower in favor of Assignor, and recorded in the Official Records on \_\_\_\_\_, 2022 as Instrument No. \_\_\_\_\_

**EXHIBIT F**

**FORM OF ASSIGNMENT OF LOAN DOCUMENTS**

**ASSIGNMENT AND ASSUMPTION OF  
LOAN DOCUMENTS**

THIS ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS (this "**Assignment**") is made and entered into as of \_\_\_\_\_, 20\_\_, by WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America ("**Assignor**"), in favor of CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, a California nonprofit public benefit corporation ("**Assignee**").

RECITALS

A. VA Building 402 LP, a California limited partnership ("**Borrower**") is the owner of the subleasehold estate in that certain real property described in Exhibit A attached hereto (the "**Property**") and the fee simple estate in the improvements located thereon ("**Improvements**" and collectively with the Property, the "**Project**").

B. Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), has issued those certain \$[\_\_\_\_\_] Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Bonds**") pursuant to the terms of that certain Trust Indenture dated as of [\_\_\_\_\_] 1, 2022 (the "**Indenture**"), executed by and between Governmental Lender, in its capacity as Issuer, and U.S. Bank Trust Company, National Association, in its capacity as Trustee (and from and after the below-referenced Conversion Date, the Fiscal Agent) ("**Fiscal Agent**"), which Bonds were purchased by Wells Fargo Bank, National Association, in its capacity as underwriter ("**Underwriter**"), in accordance with the terms of that certain Purchase Agreement dated as of [\_\_\_\_\_] 2022, executed by and among Governmental Lender, Underwriter and Borrower, which Bonds were further marketed and sold by Underwriter to certain investors pursuant to a public offering as more specifically described in that certain Official Statement dated on or about [\_\_\_\_\_] 2022 relating to the sale of the Bonds. Governmental Lender used the proceeds of such sale to fund a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Loan**") in order to finance a portion of the acquisition, construction and development of the Project. Except for its Reserved Rights (as defined in the Indenture), Governmental Lender assigned to Fiscal Agent all of its right, title and interest in, to and under the Loan (including, without limitation, with respect to the loan documents governing, evidencing and securing the Loan (collectively, the "**Construction Period Loan Documents**") pursuant to the terms of the Indenture.

C. Concurrently with the issuance of the Bonds, Assignor made a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Bank Loan**"), the proceeds of which were disbursed by Assignor to Fiscal Agent on behalf of Borrower from time to time in amounts equal to corresponding disbursements of the Loan, which were deposited by Fiscal Agent in the Collateral Fund (as defined in the Indenture) as cash collateral for the Loan. The Bank Loan is governed by that certain Construction Loan Agreement dated as of [\_\_\_\_\_] 2022 (the "**Bank Loan Agreement**"), executed by and between Assignor and Borrower, evidenced by that certain Promissory Note (SOFR in Advance) dated as of [\_\_\_\_\_] 2022 (the "**Bank Note**"), made by Borrower to the order of Assignor, and secured by that certain Construction and Permanent Leasehold Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of [\_\_\_\_\_] 2022 (the "**Deed of Trust**"), executed by Borrower for the benefit of Assignor, encumbering the Borrower's Property and recorded on \_\_\_\_\_, 2022 as Instrument No. \_\_\_\_\_ in the Official Records of Los Angeles County,

Exhibit F to Loan Purchase Agreement

California (the “**Official Records**”), and certain other loan documents executed by Borrower with or in favor of Assignor (collectively with the Deed of Trust, the “**Bank Security Documents**”).

D. Subject to the terms of the Indenture, the Bonds shall be tendered by the bondholders thereof on the Conversion Date (as defined below), and a portion of them shall be converted by Governmental Lender to a physical tax-exempt promissory note in the form of that certain Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the “**Governmental Lender Note**”) in the original principal amount of \$[\_\_\_\_], executed by Governmental Lender to the order of Assignee, who has committed to purchase such Governmental Lender Note by funding a loan to Governmental Lender in the original principal amount of \$[\_\_\_\_] (the “**Funding Loan**”) on the Conversion Date, subject to the terms and conditions of that certain Loan Purchase Agreement dated as of [\_\_\_\_\_] 1, 2022 (the “**Loan Purchase Agreement**”), executed by and among Governmental Lender, Fiscal Agent, Assignor, Assignee and Borrower. Upon such purchase, the Loan will convert to a term loan in an outstanding principal amount of \$[\_\_\_\_] (the “**Permanent Loan**”), and as conditions to and in connection with such purchase, (i) Fiscal Agent, Assignee and Borrower, as applicable, shall enter into certain agreements to govern, evidence and secure the Permanent Loan from and after the Conversion Date, (ii) Fiscal Agent shall apply the proceeds of the Funding Loan, together with any additional amounts required to be deposited with Fiscal Agent by Borrower, to repay on behalf of Borrower all principal, interest and other amounts outstanding under the Bank Loan, and (iii) in consideration of such payment, Assignor shall assign to Assignee all of its right, title and interest in, to and under certain of the Bank Security Documents as more specifically set forth herein, which, in addition to the Deed of Trust and other security assigned to Fiscal Agent by Assignor and otherwise granted to Assignee by Borrower, shall secure the Permanent Loan from and after the Conversion Date.

E. This Assignment is being executed and delivered in connection with the Conversion, as defined in the Loan Purchase Agreement. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties herein contained, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Assignor hereby grants, assigns, conveys and transfers, without recourse, to Assignee, and its successors and assigns, all right, title and interest of Assignor in and to the following (collectively, the “**Purchased Loan Documents**”):

- (a) all the documents described on Schedule I attached hereto (which, along with the other documents described in this Section 1, sets forth all of the documents to be assigned to Assignee by Assignor);
- (b) except for the documents listed on Schedule II attached hereto (the “**Terminated Documents**”), all other instruments, agreements, documents or reports (other than documents, memos, notes or reports prepared by Assignor employees solely for the internal use of Assignor) affecting or relating to the Bank Loan which were prepared and delivered to Assignor in connection with, or executed and delivered to Assignor in connection with or as security for, the Bank Loan, including but not limited to any and all security agreements, collateral assignments, pledge agreements, financial agreements, corporate authorizations, limited liability company certificates, partnership consents and other corporate, limited liability company or partnership documents, legal opinion letters from Borrower’s counsel, legal opinion letters from Tax Counsel, estoppel letters from the Borrower or tenants on the Property, operating reports, environmental reports, site plans, surveys, soil and substrata studies, architectural drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans, external written correspondence, insurance certificates or policies, appraisals, financial statements of the Borrower; and

- (c) each modification, amendment, assumption, release, or waiver letter, if any, executed by Assignor (if legally required) and/or the Borrower (if legally required) of any of the items listed above, except for the Terminated Documents.

2. Conversion. The date upon which the Assignment of Deed of Trust (as defined in the Loan Purchase Agreement) is recorded in the Official Records shall constitute the "**Conversion Date**."

3. Assumption. Assignee is purchasing the Funding Loan for a purchase price of \$\_\_\_\_\_.00. Assignee hereby assumes and agrees to perform, from and after the Conversion Date, all liabilities, obligations and duties of Assignor arising from and after the Conversion Date with respect to the documents assigned to Assignee hereunder and set forth in Schedule I hereto.

4. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.



IN WITNESS WHEREOF, this Assignment is hereby made as of the date first written above.

Assignor:

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
a national banking association

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

Assignee:

**CALIFORNIA COMMUNITY REINVESTMENT CORPORATION,**  
a California nonprofit public benefit corporation

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

**EXHIBIT A TO ASSIGNMENT OF LOAN DOCUMENTS**

**PROPERTY DESCRIPTION**

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

Exhibit F to Loan Purchase Agreement

**SCHEDULE I TO ASSIGNMENT OF LOAN DOCUMENTS**

**PURCHASED LOAN DOCUMENTS**

1. Assignment of Construction Contract, together with all consents thereto
2. Assignment of Architectural Agreements and Plans and Specifications, together with all consents thereto
3. [Assignment of Engineering Agreement and Plans and Specifications, together with all consents thereto]
4. [Assignment of Modular Supply Contract, together with all consents thereto]
5. Assignment of Management Agreement, together with all consents thereto
6. Assignment of Housing Assistance Payments Contract, Agreement to Enter Into Housing Assistance Payments Contract and Housing Assistance Payments, together with all consents thereto
7. Hazardous Materials Indemnity Agreement (Unsecured - Borrower)
8. all authorizing documents executed in connection with the above
9. opinion(s) of legal counsel (if any)

**SCHEDULE II TO ASSIGNMENT OF LOAN DOCUMENTS**

**TERMINATED DOCUMENTS**

1. Bank Loan Agreement
2. Bank Note
3. Pledge and Security Agreement
4. UCC-1 Financing Statement (Tax Credits)
5. Assignment of Development Agreement
6. any Security Agreement - Rights to Payment
7. any completion guaranty
8. any repayment guaranty
9. Hazardous Materials Indemnity Agreement (Unsecured - Guarantor)

**EXHIBIT G**

**FORM OF REPLACEMENT RESERVE AGREEMENT**

*[See Attached.]*

## EXHIBIT H

### FORM OF BORROWER'S CERTIFICATE

The undersigned, VA BUILDING 402 LP, a California limited partnership ("**Borrower**"), hereby represents and warrants to LOS ANGELES COUNTY DEVELOPMENT AUTHORITY, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as fiscal agent ("**Fiscal Agent**"), WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Bank**"), and to CALIFORNIA COMMUNITY REINVESTMENT CORPORATION ("**CCRC**") and their respective successors and assigns, as of \_\_\_\_\_, 20\_\_ and effective as of the Conversion Date, the following. All capitalized terms not otherwise defined herein shall have the same definition as set forth in that certain Loan Purchase Agreement dated as of [\_\_\_\_\_] 1, 2022 (the "**Loan Purchase Agreement**"), executed by and among Governmental Lender, Fiscal Agent, Bank, CCRC and Borrower.

1. Other Representations and Warranties. The representations and warranties set forth in this Borrower's Certificate (this "**Certificate**") are in addition to, and not in substitution for, the representations and warranties set forth in the Loan Purchase Agreement, the Borrower Loan Agreement, the Permanent Funding Agreement and the Permanent Loan Documents, all of which (a) are deemed made as of the date of this Certificate by the Borrower, and are incorporated into this Certificate as if expressly restated in this Certificate, and (b) are true and correct as of the date of this Certificate.

2. No Defenses. There are no defenses, offsets, counterclaims or claims that Borrower may have relating to the Borrower Note, the Deed of Trust or the other Permanent Loan Documents.

3. Entire Agreement. The Borrower Loan Agreement, the Permanent Funding Agreement and the other Permanent Loan Documents constitute the entire agreement among the parties thereto with respect to the matters set forth therein, and there are no agreements, understandings, warranties or representations with respect to the matters set forth therein except as specifically delineated in the foregoing agreements.

4. No Known Default. Borrower affirms that there is no uncured default or any facts or circumstances which, with due notice and/or lapse of time, would constitute a default, with respect to the Bonds, Funding Loan, Loan or Bank Loan.

5. No Release or Subordination. Except for the Terminated Documents (which shall be terminated concurrently with the Conversion Date) and the release of funds in the Collateral Fund in connection with the mandatory tender of the Bonds as contemplated by the terms of the Indenture, there has been no release or subordination of Bank's or Fiscal Agent's respective interests in the Deed of Trust or any other collateral with respect to the Loan or Bank Loan.

6. Authority/Enforceability. Borrower is in compliance with all laws and regulations applicable to its organization, existence and transaction of business and has all necessary rights and powers to own and develop the Property and Improvements, including, without limitation, all laws and regulations with respect to the creation, continued effectiveness and availability of Tax Credits.

7. Binding Obligations. Borrower has the power and authority to perform all its obligations under the Permanent Loan Documents. The Permanent Loan Documents (including, without limitation, the Purchased Documents assigned to Fiscal Agent and CCRC concurrently with the Conversion Date) and such obligations therein are valid and binding obligations of Borrower.

8. Formation and Organizational Documents. Borrower has delivered to Bank and to CCRC all formation and organizational documents of Borrower, of the general partners, joint venturers or members

Exhibit H to Loan Purchase Agreement

of Borrower, if any, and of all guarantors of the Permanent Loan, if any, and all such formation and organizational documents remain in full force and effect and have not been amended or modified since they were delivered to Bank and to CCRC. Borrower shall immediately provide Bank and CCRC with copies of any amendments or modifications of such formation or organizational documents.

9. No Violation. Borrower's execution, delivery, and performance under the Permanent Loan Documents do not: (a) require any consent or approval not heretofore obtained under any partnership agreement, operating agreement, articles of incorporation, bylaws or other document; (b) violate any governmental requirement applicable to the Property and Improvements or any other statute, law, regulation or ordinance or any order or ruling of any court or governmental entity; (c) conflict with, or constitute a breach or default or permit the acceleration of obligations under any agreement, contract, lease, or other document by which the Borrower is or the Property or Improvements are bound or regulated; or (d) violate any statute, law, regulation or ordinance, or any order of any court or governmental entity.

10. Compliance with Laws. Borrower has, and at all times shall have obtained, all permits, licenses, exemptions, and approvals necessary to occupy and operate the Property and Improvements, and shall maintain compliance with all governmental requirements applicable to the Property and Improvements and all other applicable statutes, laws, regulations and ordinances necessary for the transaction of its business, including, without limitation, all laws and regulations with respect to the creation, continued effectiveness and availability of the Tax Credits.

11. Litigation. Except as disclosed to Bank and CCRC in writing, there are no claims, actions, suits, or proceedings pending, or to Borrower's knowledge threatened, against Borrower or affecting the Property or Improvements.

12. Financial Condition. All financial statements and information heretofore delivered to Bank and CCRC by Borrower, including, without limitation, information relating to the financial condition of Borrower, the Property, the Improvements, the partners, joint venturers or members of Borrower, and/or any guarantors, fairly and accurately represent the financial condition of the subject thereof and have been prepared (except as noted therein) in accordance with generally accepted accounting principles consistently applied. Borrower acknowledges and agrees that Bank or CCRC may request and obtain additional information from third parties regarding any of the above, including, without limitation, credit reports.

13. Voluntary Bankruptcy. Neither Borrower nor any general partner of the Borrower have: (i) filed a petition for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (ii) filed a pleading or an answer in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition's material allegations regarding insolvency of the Borrower or any general partner of the Borrower; (iii) made a general assignment for the benefit of creditors; or (iv) applied for, or suffered the appointment of, a receiver, trustee, custodian or liquidator of Borrower (or any general partner of Borrower) or any of their property.

14. Involuntary Bankruptcy. Borrower or any general partner of Borrower have not failed to effect a full dismissal of any involuntary petition under the Bankruptcy Code or under any other debtor relief law that is filed against Borrower or any general partner of Borrower or in any way restrains or limits Borrower or any general partner of Borrower, or Bank or CCRC, regarding the Funding Loan, the Loan, the Property or the Improvements, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or sixty (60) days after the date of filing of such involuntary petition or the Conversion Date.

15. No Material Adverse Change. There has been no material adverse change in the financial condition of Borrower since the dates of the latest financial statements furnished to Bank and CCRC, and, except as otherwise disclosed to Bank and CCRC in writing, Borrower has not entered into any material transaction which is not disclosed in such financial statements.

Exhibit H to Loan Purchase Agreement



16. Accuracy. All reports, documents, instruments, information and forms of evidence delivered to Bank or CCRC concerning the Funding Loan, the Loan, any security for the Funding Loan or Loan or required by the Construction Period Loan Documents, the Bank Loan Documents and the Permanent Loan Documents are accurate, correct and sufficiently complete to give Bank and CCRC true and accurate knowledge of their subject matter, and do not contain any misrepresentation or material omission.

17. Certification of Unit Mix. Borrower certifies the unit affordability mix for the Property and the Improvements is current and is in compliance with the regulatory agreement executed or to be executed with TCAC.

18. Tax Liability. Borrower has filed all required federal, state, city and municipal tax returns required to be filed as of this date and has paid all taxes and assessments owed and payable, and Borrower has no knowledge of any basis for any additional payment with respect to any such taxes and assessments.

19. Compliance. Borrower is familiar with and in compliance with all governmental requirements for the operation of the Property and the Improvements and will conform to and comply with all governmental requirements.

20. Americans With Disabilities Act Compliance. The Improvements have been designed and shall be constructed and completed, and thereafter maintained, in strict accordance and full compliance with all of the requirements of the Americans With Disabilities Act, of July 26, 1990, Pub. L. No. 101 -336, 104 stat. 327, 42 U.S.C. § 12101, et. seq., as amended from time to time.

21. No Obligation to Make Further Disbursement. The Loan and Bank Loan have been fully disbursed and upon CCRC's funding of the CCRC Purchase Price, there shall be no remaining obligation on the part of Fiscal Agent, CCRC or Bank to disburse any further sum in connection with the Loan or Bank Loan, respectively. Borrower acknowledges and agrees that in the event the Loan from Governmental Lender or the Bank Loan from Bank is not fully disbursed as of the date hereof, any remaining undisbursed Loan or Bank Loan proceeds, respectively, are hereby considered cancelled as of the date hereof.

[Signature Page to Follow]

Borrower:

**VA BUILDING 402 LP,**  
a California limited partnership

By: VA Building 402 LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Jordan Pynes  
President

By: Housing Corporation of America,  
a Utah nonprofit corporation,  
its managing general partner

By: \_\_\_\_\_  
Carol Cromar  
President

By: West LA Veterans Collective, LLC,  
a California limited liability company,  
its co-general partner

By: Thomas Safran & Associates Development, Inc.,  
a California corporation,  
its co-manager

By: \_\_\_\_\_  
Jordan Pynes  
President

**EXHIBIT I**

**FORM OF CERTIFICATE OF BANK**

The undersigned, WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America ("**Bank**") hereby represents and warrants as set forth below to LOS ANGELES COUNTY DEVELOPMENT AUTHORITY, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as fiscal agent ("**Fiscal Agent**"), and CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, a California nonprofit public benefit corporation ("**CCRC**"), as of \_\_\_\_\_, 20\_\_ and effective as of the Conversion Date, as an inducement to CCRC to purchase the Funding Loan, as defined in that certain Loan Purchase Agreement among VA Building 402 LP, a California limited partnership ("**Borrower**"), Governmental Lender, Fiscal Agent, CCRC and Bank, dated as of [\_\_\_\_\_] 1, 2022 ("**Loan Purchase Agreement**"). All capitalized terms not otherwise defined herein shall have the same definition as set forth in the Loan Purchase Agreement.

1. Other Representations and Warranties. The representations and warranties set forth in this Certificate of Bank (this "**Certificate**") are in addition to, and not in substitution for, the representations and warranties made by Bank set forth in the Loan Purchase Agreement, all of which (a) are deemed made as of the date of this Certificate by Bank, and are incorporated into this Certificate as if expressly restated in this Certificate, and (b) are true and correct as of the date of this Certificate.

2. Entire Agreement. The Loan Purchase Agreement and the Purchased Documents, full and complete copies of each of which have been furnished to CCRC, constitute the entire agreement among the parties thereto with respect to the matters set forth therein, and there are no agreements, understandings, warranties or representations with respect to the matters set forth therein except as specifically delineated in the foregoing documents. There has not been any written, oral or other modification, waiver, release, cancellation, extension or other change in any of the terms, covenants, or condition in the Purchased Documents or the obligors thereunder without the prior written consent of CCRC.

3. No Release or Subordination. There has been no release or subordination of Bank's interests in the Deed of Trust or in any of the collateral for the Bank Loan under the Purchased Documents other than as approved by CCRC as of the date of recordation of the Deed of Trust.

4. Sole Owner and Holder. Bank is the sole legal and beneficial owner and holder of the Bank Loan and each of the Purchased Documents, with the sole and absolute power and authority to sell and transfer the Purchased Documents or all of its rights, title and interests thereto to Fiscal Agent and CCRC, as applicable.

5. Amount Outstanding. The principal indebtedness outstanding under the Bank Loan is \$\_\_\_\_\_ and interest is paid through \_\_\_\_\_, 20\_\_.

6. No Obligation to Make Further Disbursement. The Bank Loan is fully disbursed and there is no remaining obligation on the part of Bank to disburse any further sum in connection with the Bank Loan. Bank acknowledges and agrees that in the event the Bank Loan from Bank is not fully disbursed as of the date hereof, any remaining undisbursed Bank Loan proceeds are hereby considered cancelled as of the date hereof.

7. No Known Default. To the actual knowledge of Bank, without investigation or inquiry, there is no uncured default or any facts or circumstances which, with due notice and/or lapse of time, would constitute a default, with respect to the Bank Loan.

Bank:

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
a national banking association

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

## EXHIBIT J

### FORM OF RELEASE AND TERMINATION AGREEMENT

THIS RELEASE AND TERMINATION AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_, 20\_\_ and effective as of the Conversion Date, by and among VA BUILDING 402 LP, a California limited partnership ("**Borrower**"), WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Bank**") and CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, a California nonprofit public benefit corporation ("**CCRC**") (Bank and CCRC are sometimes referred to herein collectively as "**Lenders**").

#### RECITALS:

A. Borrower is the owner of the subleasehold estate in that certain real property described in Exhibit A attached in the below-referenced Deed of Trust (the "**Property**") and the fee simple estate in the improvements located thereon ("**Improvements**" and collectively with the Property, the "**Project**").

B. Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State of California ("**Governmental Lender**"), has issued those certain \$[\_\_\_\_\_] Los Angeles County Development Authority Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Bonds**") pursuant to the terms of that certain Trust Indenture dated as of [\_\_\_\_\_] 1, 2022 (the "**Indenture**"), executed by and between Governmental Lender, in its capacity as Issuer, and U.S. Bank Trust Company, National Association, in its capacity as Trustee (and from and after the below-referenced Conversion Date, the Fiscal Agent) ("**Fiscal Agent**"), which Bonds were purchased by Wells Fargo Bank, National Association, in its capacity as underwriter ("**Underwriter**"), in accordance with the terms of that certain Purchase Agreement dated as of [\_\_\_\_\_] 2022, executed by and among Governmental Lender, Underwriter and Borrower, which Bonds were further marketed and sold by Underwriter to certain investors pursuant to a public offering as more specifically described in that certain Official Statement dated on or about [\_\_\_\_\_] 2022 relating to the sale of the Bonds. Governmental Lender used the proceeds of such sale to fund a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Loan**") in order to finance a portion of the acquisition, construction and development of the Project. Except for its Reserved Rights (as defined in the Indenture), Governmental Lender assigned to Fiscal Agent all of its right, title and interest in, to and under the Loan (including, without limitation, with respect to the loan documents governing, evidencing and securing the Loan (collectively, the "**Construction Period Loan Documents**") pursuant to the terms of the Indenture.

C. Concurrently with the issuance of the Bonds, Bank made a loan to Borrower in the original principal amount of \$[\_\_\_\_\_] (the "**Bank Loan**"), the proceeds of which were disbursed by Bank to Fiscal Agent on behalf of Borrower from time to time in amounts equal to corresponding disbursements of the Loan, which were deposited by Fiscal Agent in the Collateral Fund (as defined in the Indenture) as cash collateral for the Loan. The Bank Loan is governed by that certain Construction Loan Agreement dated as of [\_\_\_\_\_] 2022 (the "**Bank Loan Agreement**"), executed by and between Bank and Borrower, evidenced by that certain Promissory Note (SOFR in Advance) dated as of [\_\_\_\_\_] 2022 (the "**Bank Note**"), made by Borrower to the order of Bank, and secured by that certain Construction and Permanent Leasehold Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of [\_\_\_\_\_] 2022 (the "**Deed of Trust**"), executed by Borrower for the benefit of Bank, encumbering the Borrower's Property and recorded in the Official Records of Los Angeles County, California (the "**Official Records**"), and certain other loan documents executed by Borrower with or in favor of Assignor (collectively with the Bank Loan Agreement, the Bank Note and the Deed of Trust, the "**Bank Loan Documents**").

D. Subject to the terms of the Indenture, the Bonds shall be tendered by the bondholders thereof on the Conversion Date (as defined in the Loan Purchase Agreement referenced below), and a portion of them shall be converted by Governmental Lender to a physical tax-exempt promissory note in

Exhibit J to Loan Purchase Agreement

the form of that certain Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the "**Governmental Lender Note**") in the original principal amount of \$[\_\_\_\_], executed by Governmental Lender to the order of CCRC, who has committed to purchase such Governmental Lender Note by funding a loan to Governmental Lender in the original principal amount of \$[\_\_\_\_] (the "**Funding Loan**") on the Conversion Date, subject to the terms and conditions of that certain Loan Purchase Agreement dated as of [\_\_\_\_\_] 1, 2022 (the "**Loan Purchase Agreement**"), executed by and among Governmental Lender, Fiscal Agent, Bank, CCRC and Borrower. Upon such purchase, the Loan will convert to a term loan in an outstanding principal amount of \$[\_\_\_\_] (the "**Permanent Loan**"), and as conditions to and in connection with such purchase, (i) Governmental Lender, Fiscal Agent, CCRC and Borrower, as applicable, shall enter into certain agreements to govern, evidence and secure the Permanent Loan from and after the Conversion Date, including, without limitation, that certain Borrower Loan Agreement dated as of \_\_\_\_\_, 20\_\_ (the "**Borrower Loan Agreement**"), executed by and between Governmental Lender and Borrower, that certain Permanent Period Funding Agreement dated as of \_\_\_\_\_, 20\_\_ (the "**Permanent Funding Agreement**"), executed by and between CCRC and Borrower, and a promissory note dated as of \_\_\_\_\_, 20\_\_ (the "**Borrower Note**") made by Borrower to the order of Fiscal Agent, (ii) Fiscal Agent shall apply the proceeds of the Funding Loan, together with any additional amounts required to be deposited with Fiscal Agent by Borrower, to repay on behalf of Borrower all principal, interest and other amounts outstanding under the Bank Loan, and (iii) in consideration of such payment, (a) Bank and Fiscal Agent shall enter into that certain Assignment and Assumption of Deed of Trust and Subordination Agreements dated as of \_\_\_\_\_, 20\_\_ (the "**Assignment of Deed of Trust**"), pursuant to which Bank shall assign to Fiscal Agent all of its right, title and interest in, to and under the Deed of Trust and the other Purchased Deed of Trust Documents (as defined therein), and (b) Bank and CCRC shall enter into that certain Assignment and Assumption of Loan Documents dated as of \_\_\_\_\_, 20\_\_ (the "**Assignment of Loan Documents**") and collectively with the Assignment of Deed of Trust, the "**Assignment**"), pursuant to which Bank shall assign to CCRC all of its right, title and interest in, to and under the Purchased Loan Documents (as defined therein), which, in addition to other security granted to CCRC by Borrower, shall secure the Permanent Loan from and after the Conversion Date.

E. The documents being assigned by Bank to CCRC and Fiscal Agent for the benefit of CCRC pursuant to the requirements of the Loan Purchase Agreement and Assignment are hereinafter collectively referred to as the "**Purchased Documents.**" Pursuant to the terms of the Loan Purchase Agreement, the Terminated Documents (as defined in the Assignment of Loan Documents) are to be released and terminated on the Conversion Date and shall not be Purchased Documents assigned to CCRC or Fiscal Agent. The Borrower Loan Agreement, the Permanent Funding Agreement, the Borrower Note, the Purchased Documents and any other agreements required by CCRC to govern, evidence and/or secure the Permanent Loan are hereinafter referred to as the "**Permanent Loan Documents,**" which shall supercede and replace the Construction Period Loan Documents from and after the Conversion Date. Capitalized terms not defined herein shall have the meanings specified in the Loan Purchase Agreement.

NOW, THEREFORE in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

## **SECTION 1 LOAN PURCHASE AND SALE**

Concurrently with the execution and delivery of this Agreement by Lenders and Borrower, (i) CCRC has purchased the Governmental Lender Note in order to fund the Funding Loan, (ii) Governmental Lender, Fiscal Agent, CCRC and Borrower, as applicable, have entered into and delivered the Borrower Loan Agreement, the Permanent Funding Agreement, the Borrower Note and certain of the other Permanent Loan Documents in connection with the Permanent Loan, the Lenders have caused the recordation of the Assignment of Deed of Trust and the execution and delivery of the Assignment of Loan Documents and Fiscal Agent and CCRC have assumed all of Bank's obligations under the Purchased Documents arising

Exhibit J to Loan Purchase Agreement

from and after the Conversion Date. In the event that CCRC has not purchased the Funding Loan or the Assignment of Deed of Trust is not or has not been recorded and the Assignment of Loan Documents is not being or has not been executed and delivered by the parties thereto, this Agreement shall be of no force and effect. The Borrower acknowledges and agrees that from and after the Conversion Date, Bank shall have no obligations or liabilities under any of the Purchased Documents.

## SECTION 2 RELEASE AND ACKNOWLEDGMENT BY BORROWER

2.1.1 Release of Bank. Effective as of the Conversion Date, Borrower, for itself and each of its agents, employees, representatives, affiliates, assigns, and all persons acting by, through, under, or under control of any of the foregoing, and anyone claiming by, through or under them (all of the above hereinafter collectively referred to as "**Releasor**"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby releases, waives and discharges any right to trial by jury (to the extent permitted by law), and hereby releases, waives, discharges, and covenants not to sue, Bank, its predecessors, successors, assigns and/or representatives, and each of their respective officers, directors, shareholders, affiliates, agents, employees, servicers (past and present, and their respective officers, directors, shareholders, affiliates, agents, and employees), (hereinafter collectively referred to as "**Bank Releasee**"), with respect to any and all past and present claims, causes of action, damages, demands, costs, and other liabilities of any kind, direct or indirect, known or unknown, foreseen or unforeseen, which any Releasor now has or which may arise in the future and which relate to or arise from any of the following: (i) any and all of the Bank's (or beneficiaries') obligations and liabilities under any of the Purchased Documents accruing after the Conversion Date; (ii) any of CCRC's administration of the Purchased Documents after the Conversion Date; (iii) the conduct of any Bank Releasee relating to the negotiation, documentation, execution, and delivery of any of the Purchased Documents or the Loan Purchase Agreement and the other documents executed in connection therewith; (iv) the review, approval or disapproval of any and all documents, instruments, projections, estimates, plans, specifications, drawings and other items submitted after the Conversion Date; (v) the disbursement of any secured by the Purchased Documents after the Conversion Date; and (vi) any other actions, statements or omissions by the Bank Releasee in connection with the Purchased Documents or the Property occurring after the Conversion Date.

2.1.2 Release of CCRC. Effective as of the Conversion Date, Releasor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby releases, waives and discharges any right to trial by jury (to the extent permitted by law), and hereby releases, waives, discharges, and covenants not to sue, CCRC, its predecessors, successors, assigns and/or representatives, and each of their respective officers, directors, shareholders, affiliates, agents, employees, servicers (past and present, and their respective officers, directors, shareholders, affiliates, agents, and employees), (hereinafter collectively referred to as "**CCRC Releasee**"), with respect to any and all past and present claims, causes of action, damages, demands, costs, and other liabilities of any kind, direct or indirect, known or unknown, foreseen or unforeseen, which any Releasor now has or which may arise in the future and which relate to or arise from any of the following: (i) any and all of the CCRC Releasee's (or beneficiaries') obligations and liabilities in connection with the Funding Loan and the Loan accruing prior to the Conversion Date; (ii) any Bank Releasee's administration of the Purchased Documents on or before the Conversion Date; (iii) the conduct of any CCRC Releasee relating to the negotiation, documentation, execution, and delivery of any of the Funding Loan Documents, the Permanent Loan Documents or the Loan Purchase Agreement and the other documents executed in connection therewith; (iv) the review, approval or disapproval of any and all documents, instruments, projections, estimates, plans, specifications, drawings and other items submitted to CCRC Releasee prior to the Conversion Date; (v) the disbursement of funds under the Loan prior to the Conversion Date; and (vi) any other actions, statements or omissions by the CCRC Releasee in connection with the Funding Loan, the Loan, the Purchased Documents or the Property occurring on or before the Conversion Date.



2.1.3 Advice of Counsel. Borrower, for itself and each of the Releasors, hereby acknowledges that they have been advised by their legal counsel in connection with the granting of this waiver and release. Borrower agrees that if Borrower or any other Releasor asserts against any Bank Releasee or CCRC Releasee (any of whom is a "Releasee") any of the claims released herein, Borrower shall pay, in addition to any other damages caused to the Releasee thereby, all reasonable attorneys' fees incurred by the Releasee in defending or otherwise responding to the released claims.

2.1.4 No Admission. It is expressly understood and agreed that the terms hereof are contractual and that the releases given hereby shall not be construed as an admission of liability, any liability being expressly denied.

2.1.5 Assignment of Claims. Borrower represents and warrants that it has not assigned, in whole or in part, any of the claims released herein.

2.1.6 Voluntary Waiver and Release. Borrower acknowledges that this waiver and release is voluntary and without any duress or undue influence, and is given as part of the consideration for Lenders' entering into and consummating the transactions contemplated by the Loan Purchase Agreement.

2.1.7 Civil Code Section 1542. Borrower expressly waives all rights under Section 1542 of the Civil Code of the State of California, which Borrower understands provides as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her would have materially affected his or her settlement with the debtor or released party."

Borrower understands that it may later discover facts in addition to or different from the facts it now believes to be true and that it may later discover claims it does not now suspect. The parties intend for this release to operate as a final and irrevocable release of all of Borrower's claims above described, and accordingly agree that this release may not be terminated or rescinded because of any later discovery by Borrower of different or additional facts or any unknown or unsuspected past claim.

Borrower represents and warrants that it has not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity any matter released hereby or any portion thereof or interest therein and shall indemnify, defend and hold the Releasees harmless from and against any and all claims based on or arising out of any such assignment or transfer or purported assignment or transfer.

2.2 Disbursement of Loan. Borrower acknowledges and agrees that the Loan and Bank Loan have been fully disbursed and no further disbursement is required under the Borrower Note, any of the Construction Period Loan Documents, any of the Permanent Loan Documents, the Bank Note or any other Bank Loan Documents, including the Terminated Documents. Borrower hereby waives any right to seek disbursement of any further Loan and Bank Loan proceeds.

2.3 Subsequent Discovered Claims. Borrower expressly acknowledges that it may hereafter discover facts different from or in addition to those which it now believes to be true with respect to the release of claims. Borrower agrees that the foregoing release shall be and remain effective in all respect notwithstanding such different or additional facts.

### **SECTION 3 TERMINATED DOCUMENTS**

As of the Conversion Date, the Terminated Documents shall not be deemed Purchased Documents assigned to CCRC or Fiscal Agent and shall be deemed terminated and shall be of no further force or effect.

Exhibit J to Loan Purchase Agreement

**SECTION 4  
MISCELLANEOUS**

4.1 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

4.3 Invalid Provisions. If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, unenforceable or illegal in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been set forth.

4.4 Valid and Enforceable. Borrower represents and warrants to the Lenders that this Agreement constitutes a valid and binding obligation of Borrower and is enforceable against Borrower in accordance with its terms.

4.5 Attorneys' Fees. In the event of any action at law or in equity in relation to this Agreement, the losing party shall pay the prevailing party's reasonable attorneys' fees and costs.

4.6 ADVICE OF INDEPENDENT COUNSEL. BORROWER HEREBY AGREES, REPRESENTS AND WARRANTS THAT IT HAS HAD THE ADVICE OF INDEPENDENT LEGAL COUNSEL OF ITS OWN CHOOSING, DULY ADMITTED TO PRACTICE IN THE STATE OF CALIFORNIA, IN NEGOTIATIONS FOR AND DURING THE PREPARATION OF THIS AGREEMENT, THAT IT HAS READ THE PROVISIONS OF THIS AGREEMENT, THAT ALL PROVISIONS OF THIS AGREEMENT HAVE BEEN FULLY EXPLAINED TO IT BY ITS ATTORNEYS, AND THAT IT IS FULLY AWARE AND UNDERSTANDS THE PROVISIONS OF THIS AGREEMENT AND THEIR LEGAL EFFECT AND CONSEQUENCES. BORROWER HEREBY AGREES, REPRESENTS AND WARRANTS THAT IT HAS EXECUTED THIS AGREEMENT ON THE ADVICE OF ITS ATTORNEYS, AFTER CAREFUL AND INDEPENDENT INVESTIGATION, AND IS NOT EXECUTING THIS AGREEMENT UNDER FRAUD, DURESS OR UNDUE INFLUENCE.

IN WITNESS WHEREOF, this Release and Termination Agreement is hereby made as of the date first written above.

Bank:

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
a national banking association

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

CCRC:

**CALIFORNIA COMMUNITY REINVESTMENT CORPORATION,**  
a California nonprofit public benefit corporation

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

Borrower:

**VA BUILDING 402 LP,**  
a California limited partnership

By: VA Building 402 LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Jordan Pynes  
President

By: Housing Corporation of America,  
a Utah nonprofit corporation,  
its managing general partner

By: \_\_\_\_\_  
Carol Cromar  
President

By: West LA Veterans Collective, LLC,  
a California limited liability company,  
its co-general partner

By: Thomas Safran & Associates Development, Inc.,  
a California corporation,  
its co-manager

By: \_\_\_\_\_  
Jordan Pynes  
President

## EXHIBIT K

### CONDITIONS TO PURCHASE OF FUNDING LOAN

In addition to those conditions precedent set forth in Section 3.1 to the Loan Purchase Agreement, CCRC's obligation to purchase the Funding Loan at the Conversion Date shall be subject to the following specific conditions precedent:

(a) Execution of Documents. Borrower shall have duly executed or caused to be executed, and delivered or caused to be delivered to (i) CCRC the Governmental Lender Note, all the other Funding Loan Documents, the Permanent Funding Agreement, the Replacement Reserve Agreement, the Additional Documents and all the Purchased Documents described in Schedule I of the Assignment of Loan Documents, together with any and all exhibits, schedules or attachments required by or referenced in such Purchased Documents, and (ii) Fiscal Agent the Borrower Note, the Borrower Loan Agreement, the Deed of Trust and the other Purchased Documents described in Schedule I of the Assignment of Deed of Trust..

(b) Recordation of Documents. The Assignment of Deed of Trust and all Funding Loan Documents and Permannet Loan Documents which, by their express terms, are required to be recorded, must be duly recorded in the Official Records of the county in which the Real Property is located.

(c) Security Interest. Pursuant to the assignment of the Deed of Trust by Bank to Fiscal Agent for the benefit of CCRC under the terms of the Assignment of Deed of Trust, Fiscal Agent shall be in a position to have a first priority perfected security interest in Borrower's estate in the Property and Improvements and Borrower shall execute any and all financing statements and fixture filings required in connection therewith, which financing statements shall have been filed in the appropriate office therefor.

(d) Full Performance of Covenants and Requirements. Borrower shall have performed or satisfied all of its covenants and obligations required by the Loan Purchase Agreement.

(e) Survey. The CCRC Title Policy (as defined below) shall exclude the general survey exception(s) of Title Company. Borrower shall have provided an ALTA "as built" survey of the Property complying with all applicable ALTA/NSPS requirements, as reasonably determined by CCRC. Such survey shall: (i) be subject to the approval of CCRC; (ii) be prepared and certified to CCRC and CCRC's title insurer by a registered land surveyor approved by CCRC (using a form of certification which includes all ALTA/NSPS Table A Optional Items required by CCRC); (iii) be dated or recertified not more than one month prior to the Conversion Date; (iv) be in compliance with the most-current minimum detail requirements for land title surveys adopted by the American Land Title Association and National Society of Professional Surveyors; (v) show the as-built location of all Improvements, easements, and utilities, with a legal description conforming to the CCRC Title Policy; (vi) establish that all Improvements are within the property lines; (vii) include the total square footage of the land area of the Property; (viii) attest to the existence or non-existence of a Flood Hazard Area on the Property; and (ix) cover such other matters as are reasonably required by CCRC.

(f) Appraisal. Prior to the Conversion Date, CCRC shall have received an appraisal that is accurate and in conformity with the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and other applicable laws and regulations ("**Appraisal**") of the Property (and the project to be developed thereon) in form and substance, and from a qualified real estate appraiser, satisfactory to CCRC in its sole discretion. CCRC may engage the appraiser using CCRC's standard form appraisal engagement letter, or at the option of CCRC, CCRC may elect to rely upon

Bank's appraisal as the "Appraisal" after an independent review thereof by a third party consultant selected by CCRC. All costs and expenses associated with the Appraisal (and the review of the Appraisal) shall be borne by Borrower. In addition, prior to Conversion, CCRC shall have the right to commission an update to the Appraisal, or an entirely new appraisal, at CCRC's discretion, together with a third party review of such updated or new appraisal, which shall be obtained and reviewed entirely at Borrower's expense. Any Appraisal or update thereof used by CCRC shall report a value of the Property such that the loan-to-value ratio shall not be more than [\_\_\_\_\_] percent (\_\_\_%) of the appraised Section 8 market value at stabilized occupancy using (i) for the Subsidized Units rents that are the lesser of the rents under the Subsidy Contract or the appraised market rents, and (ii) for the Non-Subsidized Units, rents that are at least ten percent (10.00%) below appraised market rental rates (as all such values shall be determined by CCRC in its reasonable discretion), and a decontrol market value of the Property such that, based upon the decontrol-rent market value, the loan-to-decontrol value ratio shall not be more than [\_\_\_\_\_] percent (\_\_\_%) (as all such values shall be determined by CCRC in its reasonable discretion). Borrower acknowledges that CCRC shall be entitled to enforce such appraisal-related requirements as are applicable to Fannie Mae or CCRC's commercial bank members from time to time under applicable laws and regulations.

(g) Title Insurance. The Title Company shall be prepared to issue, as of the Conversion Date, either a new full ALTA extended coverage lender's policy of title insurance (Form 2006), or a rewrite of the construction lender's policy issued in favor of Bank with respect to the Loan as a full ALTA extended coverage lender's policy of title insurance (Form 2006) in favor of CCRC and Fiscal Agent (in either case, the "**CCRC Title Policy**"), as follows:

1) The CCRC Title Policy shall be issued in such amount as may be requested by CCRC, but in no event more than \$[\_\_\_\_\_]00;

2) The CCRC Title Policy shall insure that the Deed of Trust, including any modifications thereto, constitutes a first and prior lien upon Borrower's estate in the Property, subject only to those encumbrances specifically approved by CCRC to show on Schedule B, Part I of the CCRC Title Policy, including, without limitation, any Permitted Prior Restrictions (as defined in the Permanent Funding Agreement) (collectively, the "**Permitted Prior Encumbrances**");

3) Any property taxes, or supplemental taxes or assessments to which the CCRC Title Policy is subject must be shown as a "lien not yet due and payable," and such taxes and assessments must not be delinquent. There can be no due but unpaid, or delinquent taxes or assessments shown in the CCRC Title Policy;

4) The CCRC Title Policy may be subject to specific survey exceptions reasonably acceptable to CCRC based upon an as-built ALTA survey to be provided at conversion, provided the appropriate easement and other survey-related endorsements are also issued, as required by CCRC. No general survey exception shall be allowed in the CCRC Title Policy;

5) In addition to the above-referenced survey exception(s), only the items shown in Schedule B, Part I of the most recent version of that certain lender's proforma title policy issued by Title Company, Order Number Pro Forma-CA-[\_\_\_\_\_] issued in favor of Bank in connection with the Bank Loan (the "**Bank Proforma**"), may be shown in Schedule B, Part I of the CCRC Title Policy. Items shown in Schedule B, Part II of the Bank Proforma shall be shown in Schedule B, Part II of the CCRC Title Policy as junior and subordinate to the insured mortgage;

6) The CCRC Title Policy shall also contain the following endorsements; (a) all endorsements attached to the Bank Proforma, including an ALTA 10.1 Assignment of Deed of Trust, if necessary; (b) a CLTA 101.2 Mechanics' Liens, with Notice of Completion endorsement; and (c) as well as any such additional endorsements as CCRC may reasonably require in its sole discretion;

7) The CCRC Title Policy and each endorsement, shall be in form and substance satisfactory to CCRC in its sole discretion;

8) The Permitted Subordinate Loan Documents (as defined in the form of the Permanent Funding Agreement attached to this Agreement as Exhibit C) shall be shown on Schedule B, Part II of the CCRC Title Policy as junior and subordinate to the lien of the Deed of Trust. No additional matters, whether prior or subordinate to the lien of the Deed of Trust and the Permitted Subordinate Loan Documents, are to be shown on the CCRC Title Policy without the express authorization of CCRC; and

9) There shall be no additional cost associated with the issuance of the CCRC Title Policy, the attachment to the CCRC Title Policy of all relevant endorsements that are contained in the LP-10 title policy issued to Bank, and the attachment to the CCRC Title Policy of all endorsements that are referred to herein, unless otherwise agreed to by CCRC in writing. Borrower shall pay the premiums for the CCRC Title Policy and all of the costs and expenses incurred by the Title Company in complying with this Agreement or CCRC's title requirements.

(h) Hazard Insurance. CCRC shall have received evidence of property insurance in the form of signed originals of the most recent editions of the ACORD 28 or ACORD 75S Insurance Binder, liability insurance in form of signed originals of most recent edition of the ACORD 25S certificate of liability insurance form, and permanent evidence within thirty (30) days of Conversion in the form of a complete duplicate original copy of each required insurance policy, including all endorsements, conditions, exclusions and limitations. All policies of insurance required under the Permanent Loan Documents upon Conversion must be issued to Borrower as the primary insured party by companies approved by CCRC having Best's ratings of not less than A-X, be approved by CCRC, in its sole discretion, as to amounts, forms, risk coverages, deductibles, expiration dates and loss payable and cancellation provisions and otherwise comply with the requirements of the Permanent Funding Agreement. In the event any insurance required under this Agreement or any other Permanent Loan Document is scheduled to expire within thirty (30) days of the Conversion Date, then Borrower shall have renewed such insurance for no less than a one (1) year renewal prior to the Conversion Date.

(i) Compliance with Legal Requirements; Licenses. Borrower shall have furnished to CCRC evidence satisfactory to CCRC establishing that the Property and the intended uses thereof fully comply, and will comply throughout the period commencing on the Conversion Date and extending to the Maturity Date (as defined in the Borrower Note), with all applicable zoning, subdivision, environmental, planning, building and other governmental laws, ordinances, codes, regulations, orders and all Requirements (as defined in the Permanent Funding Agreement). Such evidence may include at CCRC's option, without limitation, a certificate of Borrower, or a certificate or certificates of completion of all on-site and off-site improvements to the Property. Borrower shall furnish to CCRC all Licenses (as defined in the Permanent Funding Agreement) existing as of the Conversion Date.

(j) Payment of Fees and Costs. Borrower shall have paid any loan fee due to CCRC, any Delivery Assurance Fee payable under the Delivery Assurance Note and all other costs and expenses of CCRC in connection with the Funding Loan and Permanent Loan, including attorneys'



fees, in accordance with the Borrower Loan Agreement, the Permanent Funding Agreement, the other Permanent Loan Documents and this Agreement.

(k) Hazardous Substances. CCRC shall have received, reviewed and approved a Phase I Environmental Report (the "**Phase I**") for the Project. CCRC shall have received, no less than thirty (30) days prior to the Conversion Date, (i) if required by CCRC, an update of the Phase I that uses then-current ASTM standards in favor of CCRC, and (ii) a Phase II report, if recommended by the updated Phase I or required by CCRC in its discretion (the Phase I, any update of the Phase I and any Phase II, if required, together with any necessary supplemental reports, surveys, or recommendations, are hereinafter collectively referred to as the "**Environmental Reports**"), prepared by an environmental consultant satisfactory to CCRC in its sole discretion.

Any remediation or other environmental work required or recommended for the Property disclosed in, or in connection with, the Environmental Reports, including, without limitation, any remediation, clean up or work determined by CCRC to be necessary to assure compliance with all applicable statutes, codes, laws, regulations and ordinances to assure consistency with the assumptions as to the absence of any such problems, or to assure CCRC of the marketability of the Property and the Permanent Loan, shall have been completed and approved by CCRC's environmental consultant no less than thirty (30) days before the Conversion Date. Moreover, CCRC shall always have at least fifteen (15) days to review any new Environmental Report delivered to CCRC before CCRC shall have any duty to respond or to purchase the Funding Loan in order to fund the Permanent Loan at the Conversion Date. All of the Environmental Reports shall have been paid for by Borrower prior to the Conversion Date, and CCRC shall have obtained a third party review in favor of CCRC of the new Phase I or any other Environmental Report, at Borrower's expense. In addition to the foregoing, at all times while any portion of the indebtedness evidenced hereby is outstanding, Borrower shall take all actions necessary to insure that the Property remains in full compliance with all existing and future federal, state and local environmental laws, codes, statutes, rules, regulations and ordinances.

(l) Approval of Financial Condition of Borrower. CCRC shall have received and approved: (i) audited financial statements for the two (2) most recently ended fiscal years of Borrower, (ii) audited financial statements, (or certified, if audited statements are not customarily prepared) commencing with the closing of the Loan to the most recently ended fiscal year(s) of Thomas Safran & Associates Development, Inc., a California corporation ("**Developer**"), and Borrower's general partner(s), together with the respective successors in interest to any such general partners and any other general partners hereafter admitted to Borrower (hereinafter referred to as the "**General Partners**"); however, there is no implication that Borrower shall be permitted to admit successor general partners or new general partners except in accordance with the terms of the Permanent Loan Documents; and (iii) verifications of credit and accounts for Borrower, Developer and the General Partners. Borrower acknowledges that, in addition to CCRC's own underwriting criteria, CCRC may evaluate such information and matters from the perspective of Fannie Mae and other potential purchasers of the Funding Loan Documents and Permanent Loan Documents.

(m) Affordability Covenants; Subordinate Debt. Except as otherwise provided herein, at the Conversion Date, there shall be no loan documents, security documents, regulatory agreements, use agreements, bonus agreements, conditions, covenants, restrictions or other encumbrances against the Property senior in priority to the lien(s) to secure the Permanent Loan, with the exception of the Permitted Prior Encumbrances. Borrower shall submit to CCRC executed copies of each loan, restriction, regulatory or covenant agreement affecting the Property, and CCRC shall have approved of the form and content of each in its sole discretion. Borrower shall also submit to CCRC subordination agreements for the benefit of Fiscal Agent and CCRC subordinating to the Permanent Loan and the Permanent Loan Documents any loan, restriction,

regulatory or covenant agreement affecting the Property not covered by the agreements referenced in Section 1.2(f), which subordination agreement(s) shall have been approved by CCRC prior to the execution thereof, which approval shall not be unreasonably withheld, conditioned or delayed. CCRC acknowledges and agrees that as of the date of this Agreement, it has approved the subordination agreements relating to the Permitted Subordinate Loans (as defined in the form of Permanent Funding Agreement attached hereto as Exhibit C). All of the Permitted Subordinate Loans shall have been made to Borrower. The terms of all Permitted Subordinate Loans must not be less than the term of the Permanent Loan. Other than the Permitted Subordinate Loans, there shall be no financing obligations subordinate to the Permanent Loan. Borrower shall also have provided evidence to CCRC that proceeds from each of the Permitted Subordinate Loans have been fully disbursed to Borrower, including all amounts held back as retention during construction of the Project and written evidence acceptable to CCRC confirming that all interest due and payable under the Permitted Subordinate Loan Documents has been paid in full. Borrower acknowledges and agrees that Borrower shall not be permitted to make any prepayments under the Permitted Subordinate Loans prior to the pay off or refinancing of the Permanent Loan.

In addition, all rights of first offer, rights of first refusal, purchase options and similar rights, options or arrangements with respect to all or any portion of the Property and/or all or any portion of any person's or entity's interest in the Borrower shall have been subordinated to the Deed of Trust and the other Permanent Loan Documents by subordination agreements each in form and substance satisfactory to CCRC in all respects, which subordination shall have been fully executed and delivered by all parties that CCRC determines to be necessary or appropriate in the exercise of its business judgment.

(n) Property Management. Thomas Safran & Associates, Inc., a California corporation (the "**Management Agent**"), is serving as property manager of the Property, pursuant to a management contract by and between Borrower and Management Agent (together with any and all management and marketing documentation prepared in connection therewith, the "**Management Contract**"). Borrower shall submit to CCRC, prior to the Conversion Date, an executed original copy (certified as true and correct by an officer of Borrower) of the Management Contract, as amended, modified, or revised to date, or any contract that replaces in whole or in part the Management Contract, together with an Estoppel Certificate in respect thereof, in form approved by CCRC. The Management Contract shall be collaterally assigned to CCRC pursuant to the terms and conditions of the Assignment of Management Agreement referenced in Section 1.2(d) of this Agreement, which shall be one of the Purchased Documents assigned by Bank to CCRC under the Assignment of Loan Documents.

(o) Replacement Reserves. Borrower shall establish, and fund the initial deposit into, the Replacement Reserve described in the Replacement Reserve Agreement, and Borrower shall have executed and delivered the Replacement Reserve Agreement in substantially the form attached hereto as Exhibit G.

(p) Approved Leases with Subordination Clause. Borrower shall have submitted to CCRC a copy of each form of lease, sublease or residency agreement to be utilized in the leasing and rental of the residential units at the Project, together with evidence satisfactory to CCRC that all leases and residency agreements for any apartment units or commercial space in the Project shall contain a provision stating that such leases and each such tenant's rights thereunder are unconditionally junior and subordinate to the Deed of Trust, and CCRC shall have approved in writing Borrower's standard form of lease, sublease and/or residency agreement. Upon request by CCRC, Borrower shall also submit to CCRC a copy of each Lease (as defined in the Deed of Trust).

(q) Taxes and Assessments; Tax Exemption. Borrower shall provide to CCRC a current tax bill for the Property showing the assessed value of the Property and all applicable community facilities district assessments or other special assessments affecting the Property, along

with evidence that all installments of general real estate taxes, special taxes and assessments then due and payable, and all service charges, water and sewer charges, private maintenance charges, and other prior lien charges by whatever name called, whether then due on the Conversion Date or thereafter, have been paid in full on or before the Conversion Date. In addition, as of the Conversion Date, the Property must be in compliance with the requirements of any Permitted Subordinate Loan and the California Tax Credit Allocation Committee ("TCAC"), and must be exempt (or such exemption shall have been applied for) from all real property taxes (other than the local assessment district assessments for which no exemption is statutorily available) and such exemption must be maintained for the term of the Permanent Loan. Borrower shall provide CCRC with whatever proof of such exemption as CCRC may require.

(r) Site Inspection. CCRC shall have the right to inspect the Property and Project prior to the Conversion and the results of any such site inspection undertaken by CCRC shall be satisfactory to CCRC in its sole discretion.

(s) Rent Roll and Lease Up. The Borrower shall have submitted to CCRC a certified rent roll and evidence satisfactory to CCRC that the Borrower has achieved, for the Property: (1) annual gross potential income for all units of at least \$[\_\_\_\_].00 (excluding the manager's unit(s)), (2) ninety percent (90%) of projected gross income for all 120 units, according to actual signed residential leases, such that annualized rental income shall be at least \$[\_\_\_\_].00 for at least ninety (90) consecutive days immediately prior to Conversion, (3) ninety-five percent (95%) of projected gross income for all 120 units, according to actual signed residential leases, such that annualized rental income shall be at least \$[\_\_\_\_].00 by at least fifteen (15) days immediately prior to Conversion, (4) ninety percent (90%) of projected gross income according to actual residential occupancy of all 120 units, pursuant to such signed residential leases, such that annualized rental income shall be at least \$[\_\_\_\_].00 for at least ninety (90) consecutive days immediately prior to Conversion, (5) ninety-five percent (95%) of projected gross income according to actual residential occupancy of all 120 units, pursuant to such signed residential leases, such that annualized rental income shall be at least \$[\_\_\_\_].00 by at least fifteen (15) days immediately prior to Conversion, (6) lease-up of at least [\_\_] of 120 units for at least ninety (90) consecutive days immediately prior to Conversion and occupancy of at least [\_\_] of 120 units for at least ninety (90) consecutive days immediately prior to Conversion, (7) lease-up of at least [\_\_] of 120 units by at least fifteen (15) days immediately prior to Conversion and occupancy of at least [\_\_] of 120 units by at least fifteen (15) days immediately prior to Conversion, (8) rental rates for Subsidized Units shall be no greater than appraised market rental rates and rental rates for all Non-Subsidized Units shall be no greater than ten percent (10%) below appraised market rental rates (provided, however, that the parties hereto acknowledge and agree that Borrower may rent the Subsidized Units at greater than appraised market rents and the Non-Subsidized Units at greater than ten percent (10%) below appraised market rents, but CCRC shall not consider any such excess income in its underwriting analysis), and (9) verification of current utility allowances from the local public housing authority or other entity having jurisdiction over utility allowances. In the event that the area median income applicable to the Property decreases resulting in a decrease in the maximum allowance affordable rents for the Project, the CCRC Purchase Price may be adjusted in CCRC's sole and reasonable judgment.

(t) Completion of Construction. Borrower shall have submitted evidence satisfactory to CCRC, in its sole discretion, pertaining to the satisfactory completion substantially in accordance with plans and specifications therefor approved by CCRC in advance, and by a general contractor for the construction thereof approved by CCRC in advance (and CCRC shall have been advised of and shall have approved in advance, all deviations from such plans and specifications and all revisions thereto) of all construction work being undertaken at the Property or in respect of the Property, including, without limitation, (i) a filed valid Notice of Completion, (ii) completion of all punchlist items, (iii) signed unconditional lien releases from all mechanics and materialmen, (iv) a Certificate of Substantial Completion (Form AIA G704) signed by the Architect, Borrower and

Contractor confirming that the improvements were completed in accordance with the plans and specifications approved by CCRC in advance, (v) a statement from Borrower certifying that the number of units has not changed and the square footage of the Improvements has not changed substantially from those shown in the plans previously submitted to and approved by CCRC, (vi) complete as-built plans and specifications for the Property and Improvements, in such detail, and with such drawings and certifications, as CCRC may require in the exercise of its business judgment, and (vii) all municipal approvals, sign-offs or acceptances of permits, as applicable, including without limitation a valid certificate of occupancy or sign-offs on building inspection cards for construction. Borrower acknowledges and agrees that CCRC shall have the right to require Borrower to deliver a physical needs assessment regarding the Project to CCRC, which shall be subject to CCRC's review and approval.

(u) Resolutions, Incumbency and Exemptions. Borrower shall have delivered to CCRC a copy of Borrower's authorization, and the General Partner's resolutions, in each case certified by the appropriate officer, partner(s) or member(s), authorizing and directing the execution, delivery and performance of this Agreement, the Funding Loan Documents, the Permanent Loan Documents, the Environmental Indemnity, and any other documents, instruments or agreements required thereby, by its undersigned officers on its behalf. Borrower shall cause to be delivered to CCRC an incumbency certificate in respect of the officers of General Partner authorized to execute and deliver this Agreement, the Funding Loan Documents, the Permanent Loan Documents and the Environmental Indemnity, which certificate shall be in form and substance satisfactory to CCRC. Borrower and General Partner shall also deliver to CCRC a certified copy of their respective articles and bylaws, operating agreements, and the then-current Partnership Agreement, and all other formation documents, as well as a good standing certificates for Borrower and the General Partner from the California Secretary of State and the Franchise Tax Board. Borrower shall also deliver evidence of exemption from state franchise or income tax from the Franchise Tax Board, and evidence of exemption from federal income tax from the Internal Revenue Service, for any nonprofit General Partner. The Partnership Agreement shall include a requirement that the General Partner of Borrower meet the requirements of the State of California Board of Equalization Rules 140.1 and 140.2 at all times.

(v) Truth of Representations. Each of the representations, warranties, acknowledgments and statements of fact in this Agreement, the Funding Loan Documents and the Permanent Loan Documents (whether currently in effect or in the forms attached as exhibits to this Agreement), including those in the Recitals and Exhibits hereto, is and shall remain true and correct in all material respects as of the date of this Agreement and as of the Conversion Date. Borrower shall have delivered a certification in form and substance reasonably acceptable to CCRC dated as of the Conversion Date in which Borrower remakes the representations and warranties contained in this Agreement, modified as appropriate to be accurate as of the Conversion Date, together with such additional representations and warranties as CCRC may reasonably require.

(w) Miscellaneous Information. CCRC shall have received such accurate and complete information as CCRC may have reasonably requested concerning any facts, events, conditions or circumstances regarding Borrower or its partners, shareholders, agencies, employees, investors or insiders. Each of the foregoing documents shall be in form and substance satisfactory to CCRC.

(x) No Event of Default. No default or Event of Default shall exist and be continuing, and no event that would constitute a default or an Event of Default after the giving of notice or the passage of time, or both, shall exist and be continuing under this Agreement or with respect to the Bonds, the Indenture, any of the Construction Period Loan Documents, any of the Bank Loan Documents, the Environmental Indemnity, any of the Funding Loan Documents or any of the Permanent Loan Documents, or any of the documents relating to any Permitted Subordinate Loan or Restriction, on the Conversion Date.

(y) Tax Credits. Borrower shall have received an allocation of federal and state low-income housing tax credits (“**Tax Credits**”) for the Property under Section 42 of the Internal Revenue Code of 1986 as amended from time to time (the “**Code**”) from TCAC in an aggregate amount of not less than \$3,188,242.00 in federal Tax Credits annually for a period of ten (10) years and \$4,850,000.00 in aggregate State of California Tax Credits to be taken over a four (4) year period (each subject to final eligible basis tax credit percentage and adjustment in accordance with the Partnership Agreement), and shall have closed the sale of such Tax Credits to a third party purchaser for the amount of approximately \$[\_\_\_\_].00 (net of fees and costs), the proceeds of which shall have been or will be invested in the Property. CCRC shall have received copies of any Annual Owner Certification prepared by Borrower for TCAC (and, if any audit thereof uncovers deficiencies, any evidence provided to TCAC of the cure of such deficiencies), any other reporting Borrower provides to TCAC in connection with compliance with the Requirements, and Internal Revenue Service Forms 8586 and 8609, to the extent already issued. CCRC will accept a final cost certificate and Investor Limited Partner pay-in letter in lieu of Form 8609, if such form is not available as of the Conversion Date.

(z) Investment. Any and all investments or contributions required to be made in Borrower by any shareholder, general partner, or limited partner of Borrower shall have been transferred to Borrower in form, amount and substances satisfactory to CCRC. At least ninety percent (90%) of Borrower’s limited partner’s equity contributions or investment in the Borrower shall have been paid as of the Conversion Date.

(aa) Sizing of Loan Amount.

1) At Conversion, there shall be a Conversion DSCR for the Permanent Loan for at least ninety (90) consecutive days immediately prior to the Conversion Date for the Property of [\_\_\_\_] to 1.00 or higher, as determined by CCRC pursuant to its standard underwriting criteria. Borrower understands and agrees that the amount of the CCRC Purchase Price shall be limited to an amount that will allow the Conversion DSCR to be met. If the Conversion DSCR is not met, then as a condition to CCRC’s purchase of the Funding Loan, Borrower shall (i) accept a lower CCRC Purchase Price to reduce the amount of the Permanent Loan so that the Conversion DSCR is 1.15 to 1.00 or higher with respect to the Property, and (ii) make a CCRC Purchase Price Shortfall Deposit with Fiscal Agent on the Conversion Date in the amount necessary to pay in full the balance of the Bank Loan.

2) CCRC shall be entitled to modify its underwriting and/or the amount of the CCRC Purchase Price to take into account financial terms and conditions of the Restrictions, Partnership Agreement and/or any Permitted Subordinate Loan Documents that are more stringent than the financial requirements to which CCRC initially underwrote the Permanent Loan, including, without limitation, imposition by any Subordinate Lender (as defined in the form of Permanent Funding Agreement attached hereto as Exhibit C) or other party of more stringent AMI levels than those to be imposed by TCAC under its regulatory or extended use agreement to be executed and recorded as an encumbrance against the Project.

3) Prior to Conversion, CCRC shall size the CCRC Purchase Price based upon (i) rents for the Subsidized Units that are equal to appraised market rents or less and (ii) rents for the Non-Subsidized Units that are at least ten percent (10%) below appraised market rents or less. CCRC will not underwrite to any rents for the Subsidized Units greater than appraised market rents and for Non-Subsidized Units greater than ten percent (10%) below appraised market rents, regardless of whether Borrower is renting such units at rents that are greater or not; (ii) if any concessions are offered to lease up the Property (whether or not they are still in effect), CCRC will consider the effect those concessions have or may

have had to monthly income when underwriting and sizing the CCRC Purchase Price; (iii) CCRC's underwriting has assumed that both the allowable rents and the number of units at each AMI level required under the terms of any regulatory agreement or restrictive covenant executed in connection with the Property, are no more restrictive than the allowable rents and number of units at each AMI level under the regulatory agreement governing TCAC's award of Tax Credits. To the extent this assumption is incorrect at Conversion, CCRC may adjust its underwriting if the size of the CCRC Purchase Price that the Property can support may be less than the committed amount of the CCRC Purchase Price, and the CCRC Purchase Price shall be resized accordingly. Borrower acknowledges and agrees that recent changes to income limits for tax credit transactions may result in lower allowable affordable income at Conversion than included in CCRC's underwriting analysis as of the date of this Agreement and may result in a lower CCRC Purchase Price. CCRC's underwriting and the third party appraisal for the Property reviewed and approved by CCRC assume that rent restrictions imposed by all funding sources will be subordinate to the Permanent Loan, except for any Permitted Prior Encumbrances. In the event that such assumption is not correct, CCRC will require a revised appraisal in connection with its Conversion analysis prior to its purchase of the Funding Loan on the Conversion Date.

4) Borrower acknowledges and agrees that CCRC has incorporated in its underwriting for the Project (a) the local public housing authority's utility allowances, (b) the current projected compensation and fees due to the Management Agent for the management of the Project under the terms of the Management Contract as of the date hereof, and (c) the general real estate taxes, special taxes, assessments, service charges, water and sewer charges, private maintenance charges, employee salary and other employee-related costs, office costs and other charges for the Project, whether current or projected, identified by Borrower to CCRC as of the date hereof. If different utility allowances are used, the compensation or additional fees (including, without limitation, bookkeeping fees) due to the Management Agent are higher than projected as of the date hereof, the Project is subject to additional taxes or assessments in excess of the taxes and assessments projected as of the date hereof (including, without limitation, ad valorem taxes, special assessments or community facilities district assessments), or the other charges or costs set forth above are higher than projected as of the date hereof, CCRC shall be entitled to modify its underwriting for the Project and the amount of the CCRC Purchase Price.

(bb) Conformity with Other Requirements. Prior to Conversion, CCRC shall have received, reviewed and approved the most current version of the Partnership Agreement, the Restrictions and the Permitted Subordinate Loan Documents. As of the Conversion Date, the parties to the Partnership Agreement, Restrictions and the Permitted Subordinate Loan Documents shall have materially complied with the provisions thereof.

(cc) Operating Reserves. Borrower shall have established the Operating Reserve (as defined in the form of Permanent Funding Agreement attached to this Agreement as Exhibit C) in an amount not less than \$[\_\_\_\_].00 in accordance with the terms of the Permanent Funding Agreement. All of Borrower's interest in the Operating Reserve, any interest accrued or accruing thereon, and the account(s) in which those funds are held, shall be pledged to CCRC as collateral or security for the Permanent Loan pursuant to the Deed of Trust and/or any other documentation required by (and acceptable to) CCRC.

(dd) Change Orders. At all times prior to the Conversion Date, Borrower shall have provided CCRC written notice of any requested change orders relating to the construction of the Improvements which would change, modify or amend the Plans and Specifications or the construction contract for the construction of the Improvements: (i) in an amount in excess of (A) the

lesser of \$[\_\_\_\_].00 or ten percent (10%) of the line item for a single change, or (B) as to the aggregate of all line items in the Budget (as defined in the Funding Agreement) not more than five percent (5%) of total Budget, but in no event greater than \$[\_\_\_\_].00; and/or (ii) cause a significant change in the size and/or number of units, the scope of development, the generation of revenues or create major changes in the proposed amenities.

(ee) HAP Payments. Borrower shall have entered into and delivered the [Section 8 Project-Based Voucher Program Housing Assistance Payments Contract New Construction or Rehabilitation] (the "**Subsidy Contract**"), which shall be satisfactory to CCRC and shall have received all Subsidy Payments (as defined below) payable to the Project as of the Conversion Date. The Subsidy Contract shall (i) cover not less than [one hundred eighteen (118)] units at the Project, providing for Section 8 project-based subsidy payments for not less than [eleven (11)] units and Veterans Affairs Supportive Housing project-based subsidy payments for not less than [one hundred seven (107)] units; (ii) be for a term of not less than [twenty (20)] years; and (iii) provide for rents as follows: (A) gross rents of not less than \$[\_\_\_\_].00 per month per unit, and (B) net rents of not less than \$[\_\_\_\_].00 per month per unit (collectively, the "**Subsidy Payments**"). The Subsidy Contract shall provide for vacancy payments to owner for a vacancy period extending from the beginning of the first calendar month after the move-out month for a period not less than two (2) full months following the move-out month. In the event that the Subsidy Contract does not include such 2-month vacancy payment period, then CCRC may consider underwriting to a higher vacancy rate at Conversion. Borrower acknowledges that CCRC has used the foregoing amounts in connection with its underwriting analysis of the Project and Loan as of the Closing Date, and Borrower agrees that any lesser amounts actually provided for in the Subsidy Contract may be considered by CCRC in connection with its underwriting analysis of the Project and Loan at Conversion, and may, without limitation, result in a lower CCRC Purchase Price than the amount set forth in Section 2.1(a) of this Agreement. The Subsidy Contract and Subsidy Payments shall have been collaterally assigned to CCRC pursuant to the assignment of the agreement referenced in Section 1.2(h) of this Agreement under the Assignment of Loan Documents by Bank and CCRC. Prior to Conversion, CCRC shall have the right to commission an appraisal or market rent study for the Property, at CCRC's discretion, together with a third party review of such appraisal or market rent study, in order to reevaluate market rents for the Property, which shall be obtained and reviewed entirely at Borrower's expense. Borrower acknowledges and agrees that at Conversion, CCRC shall not underwrite any Subsidy Contract rents in excess of appraised market rents.

(ff) Social Services Agreement. CCRC shall have received (i) a copy of each executed agreement between Borrower and any provider of social services for the Project, including, without limitation, [Thomas Safran & Associates, Inc., a California corporation], and [\_\_\_\_], and (ii) an estoppel in form and substance satisfactory to CCRC from each such provider of social services relating to its social services agreement. Any such agreement(s) shall delineate the social services to be provided for the Project thereunder and the fees and costs owed to such provider in connection therewith, and shall be acceptable to CCRC in form and substance.

(gg) Radon Testing and Mitigation. CCRC shall have received the results of radon gas testing for each building on the Property, which shall include not less than [ten percent (10%)] of the ground floor units in the Improvements. The results of such tests shall conclude that no radon gas exists at the Property in excess of 4.0 pCi/L; provided, however, that to the extent such tests show radon gas levels in excess of 4.0 pCi/L, Borrower shall take appropriate mitigation actions in accordance with applicable laws and regulations in order to reduce such radon gas levels below 4.0 pCi/L and CCRC shall have received final testing results (including, without limitation, testing results for additional units if required by CCRC in its sole discretion) confirming all radon gas levels below 4.0 pCi/L and otherwise satisfactory to CCRC, together with supporting and related documentation as may be required by CCRC.

(hh) NPLH Reserves. CCRC shall have received evidence satisfactory to CCRC that on or prior to the Conversion Date, Borrower has established and funded all reserve accounts required under the terms of the NPLH Regulatory Agreement or otherwise in connection with the NPLH Loan in compliance with the terms thereof, including, without limitation, the NPLH Flexible Operating Reserve (which shall be funded out of available cash flow in accordance with the terms of the NPLH Regulatory Agreement) and the LACDA NPLH Transition Reserve (which shall be capitalized in the minimum amount approved by LACDA) (as all of such terms are defined in the form of Permanent Funding Agreement attached to this Agreement as Exhibit C).

(ii) Projected Ongoing Debt Service Coverage Ratio: As of the Conversion date, the ratio of net income for the Property to the debt service, as determined solely by CCRC, shall be projected by CCRC's underwriting analysis to remain at or above [\_\_\_] to 1.00 for the entire term of the Permanent Loan based on inflationary factors as deemed appropriate by CCRC.

(jj) Geotechnical Recommendations Verification. CCRC shall have received written verification, in form and content satisfactory to CCRC, from a geotechnical engineering firm certifying that the recommendations contained in (1) that certain [Geotechnical Investigation report] dated [\_\_\_\_\_] prepared by [\_\_\_\_], and (2) in any additional geotechnical reports prepared for the Property, (i) have all been incorporated into the design and construction of the Project, (ii) were followed during excavation and grading, and (iii) on-site observation and testing was conducted to confirm the same.

(kk) Solar Photovoltaic System. Borrower acknowledges and agrees that in order for CCRC to underwrite any electricity savings from a solar photovoltaic system, Borrower shall have installed a solar photovoltaic system and shall have delivered to CCRC evidence that such system is connected to the grid/local electricity provider and supplying electricity to the Property. At Conversion, CCRC shall require documentation to evidence reduced utility usage and shall underwrite to the actual electricity costs at the Property during the ninety (90) days immediately prior to the Conversion Date. If the photovoltaic system is not connected to the grid/local electricity provider and supplying electricity to the Property during such ninety (90) day period, CCRC reserves the right underwrite to actual electricity costs at comparable properties.

(ll) Solar Thermal Water Heating System. Borrower acknowledges and agrees that in order for CCRC to underwrite any gas savings from a solar thermal water heating system, Borrower shall have installed a solar thermal water heating system and shall have delivered to CCRC evidence that such system is connected and functioning. At Conversion, CCRC shall require documentation to evidence reduced utility usage and shall underwrite to the actual gas costs at the Property during the ninety (90) days immediately prior to the Conversion Date. If the solar thermal water heating system is not connected and functioning during such ninety (90) day period, CCRC reserves the right underwrite to actual gas costs at comparable properties.

(mm) CASp Report. Prior to Conversion, Borrower shall have delivered to CCRC a copy of each CASp report prepared in connection with the Project, together with evidence that all required work identified in the CASp reports has been completed and approved by LACDA and the Neutral Accessibility Consultant ("**NAC**"), or if such CASp report shows any findings requiring corrective action, that such corrective actions have been completed to the satisfaction of LACDA, NAC and CCRC.

(nn) Enhanced Use Lease and Enhanced Use Sublease. Neither the Enhanced Use Lease nor the Enhanced Use Sublease shall have been modified, amended or terminated without the prior written approval of CCRC, and prior to Conversion, CCRC shall have received a ground lessor estoppel from each of the VA and Principal Developer, each of which shall be dated not more than thirty (30) days prior to the Conversion Date, that confirms that (i) neither the Enhanced Use Lease nor the Enhanced Use Sublease, respectively, has been amended or modified without



CCRC's written approval, (ii) each of the Enhanced Use Lease and Enhanced Use Sublease, respectively, is in full force and effect, (iii) Principal Developer is not in default and is in compliance with all of the provisions of the Enhanced Use Lease, and Borrower is not in default and is in compliance with all the provisions of the Enhanced Use Sublease, respectively, and (iv) all rent under each of the Enhanced Use Lease and Enhanced Use Sublease, respectively, has been fully prepaid.

**EXHIBIT A TO LOAN PURCHASE AGREEMENT  
FORM OF  
FUNDING LOAN AGREEMENT**

By and among

**CALIFORNIA COMMUNITY REINVESTMENT CORPORATION,**  
as Funding Lender

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
as Governmental Lender

and

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

Dated as of [\_\_\_\_\_] 1, 20[\_\_\_]

Relating to:

    \$[Permanent Loan Amount]  
    Los Angeles County Development Authority  
    Multifamily Housing Revenue Note  
    (West Los Angeles VA Campus Building 402 Apartments)  
    2022 Series F

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## FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of [\_\_\_\_\_] 1, 20[\_\_\_] (this “Funding Loan Agreement”), is entered into by and among CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, a California nonprofit public benefit corporation, in its capacity as Funding Lender (together with any successor hereunder, the “Funding Lender”), the LOS ANGELES COUNTY DEVELOPMENT AUTHORITY, a public body, corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the “Governmental Lender”) and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as fiscal agent (together with any successor fiscal agent hereunder, the “Fiscal Agent”).

### RECITALS

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 Governmental Lender is empowered to issue its revenue bonds, notes or other evidences of indebtedness to finance the acquisition, construction, rehabilitation and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, the Act authorizes the Governmental Lender: (a) to make loans to provide financing for multifamily residential housing located within the jurisdiction of the Governmental Lender, in this instance, specifically, the County of Los Angeles (the “County”); (b) to issue its revenue bonds, notes or other evidence of indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues and receipts to be received by the Governmental Lender from or in connection with such loans in order to secure the payment of the principal or prepayment amount of and interest on such bonds, debentures, notes or other evidence of indebtedness; and

WHEREAS, VA Building 402 LP, a California limited partnership (together with its successors and assigns, the “Borrower”), has previously requested that the Governmental Lender enter into a Trust Indenture dated as of [November] 1, 2022 (the “Construction Indenture”), between the Governmental Lender, as issuer, and the Fiscal Agent, as trustee, under which the Governmental Lender issued its Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the “Bonds”) in the aggregate principal amount of \$33,755,000 and used the proceeds from the sale thereof to make a loan to the Borrower (the “Borrower Loan”) pursuant to a Loan Agreement dated as of [November] 1, 2022 (the “Construction Loan Agreement”), between the Governmental Lender, as issuer, and the Borrower to finance the acquisition, construction, improvement and equipping of a 120-unit (including two manager units) multifamily rental housing development located at 11301 Wilshire Boulevard, Building 402, in unincorporated Los Angeles County, California, to be known as West Los Angeles VA Campus Building 402 Apartments (the “Project”); and

WHEREAS, to evidence its payment obligations under the Construction Loan Agreement, the Borrower executed and delivered to the Governmental Lender a promissory note dated [November \_\_\_\_], 2022 (the “Construction Borrower Note”); and

WHEREAS, as security for the Bonds, the Governmental Lender assigned all of its interests, except for the Reserved Rights (as defined in the Construction Indenture), in the Borrower Loan and the Construction Borrower Note to the Fiscal Agent, as trustee, for the benefit of the holders of the Bonds, for security purposes only; and

WHEREAS, the Borrower, the Funding Lender, Wells Fargo Bank, National Association, the Governmental Lender, and the Fiscal Agent entered into that certain Loan Purchase Agreement dated as of [November] 1, 2022 (as may be amended, the “Loan Purchase Agreement”), pursuant to which the Funding Lender agreed to acquire up to \$[Permanent Loan Amount] in principal amount of the Bonds (subject to conversion thereof to the Governmental Lender Note as a condition precedent to such acquisition), the Borrower Loan and the Construction Borrower Note upon the satisfactions of the terms and conditions set forth therein; and

WHEREAS, as a condition of the Funding Lender’s purchase of the remaining interests in the Bond, the Borrower Loan, and the Construction Borrower Note, the Funding Lender requires that the Governmental Lender, the Fiscal Agent, and the Borrower enter into certain agreements, including this Funding Loan Agreement, the Borrower Loan Agreement, and the Borrower Note, to amend and restate the Construction Indenture, the Construction Loan Agreement, and the Construction Borrower Note; and

WHEREAS, all Conversion Conditions (as defined in the Loan Purchase Agreement) and all of the other conditions of the funding Lender’s purchase of the Funding Loan set forth in the Loan Purchase Agreement have been or as of the Conversion Date will be satisfied;

WHEREAS, upon the execution and delivery of the Governmental Lender Note the previously issued Bonds shall hereby be amended and restated by the Governmental Lender Note;

**AGREEMENT:**

NOW, THEREFORE, in consideration of the premises and mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

**ARTICLE I**

**DEFINITIONS; PRINCIPLES OF CONSTRUCTION**

**Section 1.1 Definitions.** For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other



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

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to “Approved Accounting Method” refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as “tax exempt” or to the “tax exempt status” of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

“*Act*” shall have the meaning assigned to such term in the recitals above.

“*Additional Borrower Payments*” shall have the meaning given to such term in the Borrower Loan Agreement.

“*Affiliate*” shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“*Approved Transferee*” shall mean (a)(i) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act that is a financial institution or commercial bank having capital and surplus of \$1,000,000,000 or more, (ii) an Affiliate of the Funding Lender that is a QIB, or (iii) a trust or custodial arrangement established by the Funding Lender or one of its Affiliates, in each case, the Funding Lender or an Affiliate thereof, as transferor, represents in writing to the Fiscal Agent that either (A) all of the beneficial owners of such trust or custodial arrangement are QIBs or (B) all of the interests in such trust or custodial arrangement (other than residual interests retained by QIBs) are rated in the “A” category or higher by a Rating Agency; provided, however, that a single QIB shall at all times hold a controlling interest in the residual interests and such trust or arrangement shall be controlled by the Funding Lender or an Affiliate thereof; and, in addition, (b)(i) [reserved]; (ii) an institutional accredited

investor, as defined in Rule 501 promulgated under the Securities Act (an “Accredited Investor”); (iii) Affiliates of any Approved Transferee meeting the standard in (a)(i) or (b)(ii) above and is a QIB or Accredited Investor; or (iv) Fannie Mae or Freddie Mac or a trustee on behalf of or for Fannie Mae or Freddie Mac.

“*Authorized Borrower Representative*” shall mean any person who at the time and from time to time may be designated as such, by written certificate furnished to the Governmental Lender, the Funding Lender, the Servicer and the Fiscal Agent containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“*Authorized Governmental Lender Representative*” shall mean the Chair of the Board of Commissioners and the Executive Director of the Governmental Lender, and any other, officer or employee of the Governmental Lender designated to perform a specified act, to sign a specified document or to act generally on behalf of the Governmental Lender as evidenced by a written certificate furnished to the Funding Lender, the Fiscal Agent, the Servicer (if any) and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative.

“*Bond Fund*” shall mean the fund of that name established under the Construction Indenture and described further in Section 7.3(a) hereof.

“*Borrower*” shall mean VA Building 402 LP, a California limited partnership, and its permitted successors and assigns under the Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as owner of the Project.

“*Borrower Loan*” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the original maximum principal amount of \$33,755,000, as evidenced by the Construction Borrower Note, as assigned to the Fiscal Agent, as trustee, which Borrower Loan is being purchased by the Funding Lender on the Conversion Date.

“*Borrower Loan Agreement*” shall mean the Borrower Loan Agreement, dated of even date herewith, between the Governmental Lender and the Borrower, which agreement amends and restates the Construction Loan Agreement, as it may be further supplemented, amended or replaced from time to time in accordance with its terms.

“*Borrower Loan Agreement Default*” shall mean any event of default set forth in Section 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond all applicable notice, grace and cure periods.

“*Borrower Loan Amount*” shall mean the amount of \$[Permanent Loan Amount], the amount of the Borrower Loan on the Conversion Date.

“*Borrower Loan Documents*” shall have the meaning given such term in the Borrower Loan Agreement.

“*Borrower Note*” shall mean the “Borrower Note” as defined in the Borrower Loan Agreement.

“*Business Day*” shall mean any day other than (i) a Saturday or a Sunday, (ii) a day on which federally insured depository institutions in the State or in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed, or (iii) a State holiday when the Governmental Lender is authorized or obligated to be closed.

“*Closing Date*” shall mean November [\_\_\_], the date of issuance and delivery of the Bonds.

“*Code*” shall mean the Internal Revenue Code of 1986 as in effect on the Conversion Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Conversion Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“*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*” shall have the meaning contained in the Loan Purchase Agreement.

“*Conversion Conditions*” shall have the meaning given such term in the Loan Purchase Agreement.

“*Conversion Date*” shall mean [\_\_\_\_\_], the date upon which the Funding Lender purchases the Governmental Lender Note and the interest of the Funding Lender in the Borrower Loan through funding the Funding Loan to the Governmental Lender, and assumes the role of Funding Lender under the Funding Loan Documents.

“*County*” shall mean the County of Los Angeles, California.

“*Expense Fund*” shall mean the fund of that name established under the Construction Indenture and further described in Section 7.3(c) hereof.

“*Fiscal Agent*” shall mean U.S. Bank Trust Company, National Association, as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

“*Fiscal Agent’s Fees*” shall mean the ongoing compensation and expenses payable to the Fiscal Agent as follows:

(a) the annual administration fee of the Fiscal Agent in the amount of \$3,600 payable annually in advance by the Borrower to the Fiscal Agent, commencing on the Closing Date and on each [November] 1, thereafter, so long as any portion of the Funding Loan is outstanding;

(b) the reasonable fees and charges of the Fiscal Agent for necessary extraordinary services rendered by it and/or reimbursement for extraordinary expenses incurred by it under this Funding Loan Agreement as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial or for appellate proceedings); provided, however, that the Fiscal Agent shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Fiscal Agent shall have been made; and

(c) for purposes of the Borrower Loan Agreement, indemnification of the Fiscal Agent by the Borrower.

“*Fitch*” shall mean Fitch, Inc., or its successor.

“*Funding Lender*” shall mean California Community Reinvestment Corporation, a California nonprofit public benefit corporation, and any successors and assigns as holder of the Governmental Lender Note.

“*Funding Loan*” shall have the meaning set forth in the recitals of this Funding Loan Agreement.

“*Funding Loan Agreement*” shall mean this Funding Loan Agreement by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

“*Funding Loan Documents*” shall mean (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Governmental Lender Note, (iv) the Regulatory Agreement, (v) the Tax Certificate, (vi) the Borrower Loan Documents, (vii) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (viii) all amendments, modifications, renewals and substitutions of any of the foregoing.

“*Governmental Lender*” shall mean the Los Angeles County Development Authority, a public body, corporate and politic, of the State of California and any successor to its rights, duties, and obligations under this Funding Loan Agreement and the Funding Loan Documents.

“*Governmental Lender Fee*” shall mean the Governmental Lender’s issuance fee paid to the Governmental Lender on or before the Closing Date and the Ongoing Governmental Lender Fee, all as set forth in Section 7(n) of the Regulatory Agreement.

“*Governmental Lender Note*” shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

“*Highest Rating Category*” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating category given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three months or less and “Aaa” for

greater than three months. If at any time (i) both S&P and Moody's rate a Permitted Investment and (ii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated "AAA" by S&P and "Aa3" by Moody's is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated "AAA" by S&P and "A1" by Moody's is not rated in the Highest Rating Category.

*"Loan Purchase Agreement"* shall mean the Loan Purchase Agreement described in the recitals of this Funding Loan Agreement.

*"Maturity Date"* shall mean [\_\_\_\_\_].

*"Maximum Rate"* shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

*"Minimum Beneficial Ownership Amount"* shall mean the greater of \$250,000 or an amount no less than 15% of the outstanding principal amount of the Funding Loan.

*"Moody's"* shall mean Moody's Investors Service, Inc., or its successor.

*"Noteowner"* or *"owner of the Governmental Lender Note"* shall mean the owner of the Governmental Lender Note as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.5(e).

*"Ongoing Governmental Lender Fee"* shall mean the portion of the Governmental Lender Fee payable after the Closing Date under Section 7(n) of the Regulatory Agreement.

*"Opinion of Counsel"* shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

*"Permanent Period Amount"* shall mean \$[\_\_\_\_\_], the principal amount of the Funding Loan under this Funding Loan Agreement as of the Conversion Date.

*"Permitted Investments"* shall mean, to the extent authorized by law, for investment of any moneys held under this Funding Loan Agreement:

(a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America ("Government Obligations").

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United

States of America or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000 and maturing in less than 365 days; provided that the Fiscal Agent or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s/S&P which deposits, accounts or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency.

(d) Bonds (including tax-exempt bonds), bills, notes or other obligations of or secured by Fannie Mae, Freddie Mac, the Federal Home Loan Bank or the Federal Farm Credit Bank.

(e) Money market funds rated AAA by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended, which may be administered by the Fiscal Agent or its affiliates.

(f) Collateralized Investment Agreements or Repurchase Agreements with financial institutions rated in the “A” category or higher without regard to qualifiers, by at least one Rating Agency. The agreement must be continually collateralized with obligations specified in paragraphs (a), (b) and/or (d) above, eligible for wire through the Federal Reserve Bank System or the DTC/PTC as applicable, and at a level of at least 103% of the amount on deposit and valued no less than daily. The collateral must be held by a third party custodian and be free and clear of all liens and claims of third parties. Securities must be valued daily, marked-to-market at current market price plus accrued interest. If the market value of the securities is found to be below the required level, the provider must restore the market value of the securities to the required level within one Business Day. Permitted collateral must be delivered to and held in a segregated account by the Fiscal Agent or a custodian (the “Collateral Agent”), and the Collateral Agent cannot be the provider. The collateral must be delivered to the Collateral Agent before/simultaneous with payment (perfection by possession of certificated securities). Acceptable collateral must be free and clear of all liens and claims of third parties and shall be registered in the name of the Collateral Agent for the benefit of the Governmental Lender and the Fiscal Agent. The agreement shall state that the Collateral Agent has a valid and perfected first priority security interest in the securities, any substituted securities and all proceeds thereof.

(g) Any other investment authorized by the laws of the State, if such investment is approved in advance in writing by the Funding Lender in its sole discretion.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment or any agreement with a maturity profile greater than the date(s) on which funds representing the corpus of the investment may be needed under the Funding Loan Documents. This exception (1) shall not apply to Permitted Investments listed in paragraph (g).

(2) Any obligation bearing interest at an inverse floating rate.

(3) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(4) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index. “Person” shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“*Pledged Revenues*” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of, among other things, the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Borrower Loan, the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon (except any amounts on deposit in the Expense Fund and the Rebate Fund).

“*Prepayment Premium*” shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“*Project*” shall have the meaning given to that term in the Borrower Loan Agreement.

“*Rating Agency*” shall mean any one and each of S&P, Moody’s and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments, which has been approved by the Funding Lender.

“*Rebate Amount*” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“*Rebate Analyst*” shall mean the rebate analyst selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be Kutak Rock LLP.

“*Rebate Analyst’s Fee*” shall mean the fee of the Rebate Analyst.

“*Rebate Fund*” shall mean the fund of that name established under the Construction Indenture and further described in Section 7.3(c) hereof.

“*Regulations*” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“*Regulatory Agreement*” shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [November] 1, 2022, by and among the Governmental Lender, the Borrower and the Fiscal Agent, as the same may be amended, modified or supplemented from time to time.

“*Required Transferee Representations*” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B, duly executed by the holder of the Governmental Lender Note and delivered to the Governmental Lender and the Fiscal Agent.

“*Resolution*” shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“*Responsible Officer*” shall mean any officer within the Global Corporate Trust department (or any successor group) of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

“*Securities Act*” shall mean the Securities Act of 1933, as amended.

“*Security*” shall mean the security for the performance by the Governmental Lender of its obligations under the Governmental Lender Note and this Funding Loan Agreement as more fully set forth in Article IV hereof.

“*Security Instrument*” shall have the meaning given to that term in the Borrower Loan Agreement.

“*Servicer*” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and/or the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially, the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“*Servicing Agreement*” shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“*Standard & Poor’s*” or “*S&P*” shall mean S&P Global Ratings, a business unit of Standard & Poor’s Ratings Services, and its successors.

“*State*” shall mean the State of California.

“*Tax Certificate*” shall mean, collectively, (a) 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, and executed by the Governmental Lender and the Borrower, and (b) the Borrower Cost Certificate dated the Closing Date and executed and delivered by the Borrower, in each case including all exhibits and other attachments thereto and in each case as may be amended, modified, supplemented and replaced from time to time.

“*Tax Counsel*” shall mean Kutak Rock LLP or any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“*Tax Counsel Approving Opinion*” shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations, published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“*Tax Counsel No Adverse Effect Opinion*” shall mean an opinion of Tax Counsel substantially to the effect that the taking of the action specified therein will not, in and of itself, adversely affect any exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“*UCC*” shall mean the Uniform Commercial Code as in effect in the State.

“*Unassigned Rights*” shall mean the Governmental Lender’s rights to reimbursement and payment of its fees (including the Ongoing Governmental Lender Fee), costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement and Section 7 of the Regulatory Agreement, its rights to attorneys’ fees under Sections 5.11, 5.13, 5.14 and 5.15 thereof, its rights to indemnification under Section 5.15 thereof, its rights of access under Section 5.17 thereof, its rights to receive notices, reports and other statements and its rights to consent to certain matters, including but not limited to its right to consent to amendments to this Funding Loan Agreement, the Borrower Loan Agreement and the Regulatory Agreement, and otherwise as provided in this Funding Loan Agreement and the Borrower Loan Agreement and the Governmental Lender’s indemnification, consent and enforcement rights and rights to payment of fees, costs and expenses under the Regulatory Agreement or the Tax Certificate.

“*Written Certificate,*” “*Written Certification,*” “*Written Consent,*” “*Written Direction,*” “*Written Notice,*” “*Written Order,*” “*Written Registration,*” “*Written Request,*” and “*Written Requisition*” shall mean a written certificate, certification, consent, direction, notice, order, registration, request or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative, an authorized representative of the Servicer, an authorized representative of the Fiscal Agent or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Governmental Lender, the Servicer, the Fiscal Agent or such other Person as required under the Funding Loan Documents.

“Yield” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

**Section 1.2 Effect of Headings and Table of Contents.** The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

**Section 1.3 Date of Funding Loan Agreement.** The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

**Section 1.4 Designation of Time for Performance.** Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

**Section 1.5 Interpretation.** The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

**Section 1.6 Restatement of Construction Indenture.** The parties hereto do hereby amend and restate the Construction Indenture. From and after the effective date hereof, this Funding Loan Agreement shall amend, restate and replace in its entirety the Construction Indenture.

## ARTICLE II

### TERMS; GOVERNMENTAL LENDER NOTE

#### Section 2.1 Terms.

(a) Principal Amount. The total principal amount of the Funding Loan hereafter is hereby expressly limited to the Permanent Period Amount.

(b) [Reserved].

(c) Acquisition Date; Maturity. The Funding Loan shall be acquired on the Conversion Date and shall mature on the Maturity Date at which time the entire principal amount of the Funding Loan, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) Principal. The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the Permanent Period Amount, less any payments of principal of the Governmental Lender Note previously received from payments of corresponding principal amounts under the Borrower Note, including regularly scheduled

principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Fiscal Agent shall keep a record of all principal repayments made under the Governmental Lender Note and shall upon Written Request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) Interest. Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement; provided, however, that in no event shall interest paid on the Governmental Lender Note exceed the Maximum Rate.

(f) Corresponding Payments. The payment or prepayment of principal, interest and Prepayment Premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, Prepayment Premium, if any, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest or premium, as applicable, due on the Borrower Note shall be passed through to the Funding Lender by the Fiscal Agent as a like payment or prepayment of principal, interest, and premium, if any, due on the Funding Loan and the Governmental Lender Note. The Funding Lender agrees to provide copies of the final Borrower Note and any amendments thereto, as well as the Debt Service Schedule (as defined in Section 2.4(b) of the Borrower Loan Agreement) to the Fiscal Agent on the Conversion Date, if applicable, or on the date an amendment to the Borrower Note or the Debt Service Schedule is executed or finalized, as applicable.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If under any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

**Section 2.2 Form of Governmental Lender Note.** As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be a physical certificated instrument substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement or State law.

**Section 2.3 Execution and Delivery of Governmental Lender Note.** The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of the Authorized Governmental Lender Representative, and attested by the manual or facsimile signature of the Executive Officer of the Board of Commissioners of the Governmental Lender. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Governmental Lender Note. In case any officer of the Governmental Lender whose manual or facsimile signature shall appear on the Governmental Lender Note shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also the Governmental Lender Note may bear the facsimile signatures of, or may be signed by, such persons as at the actual time of the execution thereof shall be the proper officers to sign the Governmental Lender Note although at the date of such Governmental Lender Note such persons may not have been such officers.

**Section 2.4 Authentication.** The Governmental Lender Note shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication on such Governmental Lender Note, substantially in the form set forth in Exhibit A hereto, shall have been manually executed by the Fiscal Agent. The Fiscal Agent shall authenticate the Governmental Lender Note by execution of the certificate of authentication on or attached to the Governmental Lender Note, and the certificate of authentication so executed on or attached to such Governmental Lender Note shall be conclusive evidence that it has been authenticated and delivered under this Funding Loan Agreement.

**Section 2.5 Registration and Transfer of Governmental Lender Note.**

(a) The Fiscal Agent acknowledges that on the Conversion Date the Funding Lender will be the holder of the Governmental Lender Note and shall remain the sole holder of the Governmental Lender Note except as otherwise provided herein.

(b) The Fiscal Agent, on behalf of the Governmental Lender, shall provide for the registration of the Governmental Lender Note and the registration of transfers thereof. In that regard, the Fiscal Agent shall maintain a register which shall contain a record of every

Governmental Lender Note at any time authenticated hereunder, together with the name and address of the holder thereof, the date of authentication, the date of transfer or payment, and such other matters as may be deemed appropriate by the Fiscal Agent or the Governmental Lender. The Governmental Lender, the Fiscal Agent and any agent of the Governmental Lender or the Fiscal Agent may treat the person in whose name each Governmental Lender Note is registered as the owner of such Governmental Lender Note for the purpose of receiving payment of such Governmental Lender Note and for all other purposes whatsoever whether or not the respective Governmental Lender Note payments are overdue, and, to the extent permitted by law, neither the Governmental Lender, the Fiscal Agent nor any such agent shall be affected by notice to the contrary.

(c) The transfer of the Governmental Lender Note is subject to registration by the holder thereof only upon compliance with the conditions for registration of transfer imposed on the holder under this Section 2.5 and under Section 2.6 hereof. Upon surrender of a Governmental Lender Note at the principal corporate trust office of the Fiscal Agent, the Governmental Lender shall execute (if necessary), and the Fiscal Agent shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), a new Governmental Lender Note of a like principal amount, and having the same stated maturity, tenor and interest rate.

(d) A Governmental Lender Note delivered in exchange for or upon transfer of a Governmental Lender Note shall be a valid limited obligation of the Governmental Lender evidencing the same debt, and entitled to the same benefits under this Funding Loan Agreement, as the respective Governmental Lender Note surrendered for such exchange or transfer.

(e) Registration of the transfer of the Governmental Lender Note may be made on the Fiscal Agent’s register by the holder thereof in person or by such holder’s attorney duly authorized in writing. A Governmental Lender Note presented or surrendered for registration of transfer or exchange shall (i) be accompanied by evidence of compliance with the provisions of Section 2.6 hereof, (ii) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in a form satisfactory to the Fiscal Agent, duly executed and with guaranty of signature of the holder thereof or his, her or its attorney duly authorized in writing and (iii) include written instructions as to the details of the transfer of such Governmental Lender Note. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third-party registrar.

(f) No service charge shall be made to the registered holder of the Governmental Lender Note for any registration, transfer or exchange, but the Fiscal Agent and the Governmental Lender may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of a Governmental Lender Note, and any legal or unusual costs of transfers.

## **Section 2.6 Restrictions on Transfer.**

(a) The Funding Lender shall deliver to the Fiscal Agent and the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Conversion Date.

(b) The Funding Lender shall have the right to sell (A) the Governmental Lender Note only in whole or (B) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, only to the extent permitted by Section 2.6(b) below and the definition of Approved Transferee; provided, that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender and the Fiscal Agent, the Required Transferee Representations, except that no Required Transferee Representations shall be required to be delivered by the Funding Lender's member banks which own or will own a participation interest under the Funding Lender's tax exempt loan pool, or by transferees or beneficial interest owners described in clause (a)(iii) of the definition of "Approved Transferee." There shall be no option to transfer the Governmental Lender Note to a trust or similar arrangement pursuant to the provisions set forth in the definition of "Approved Transferee" where: (1) any of the interests (other than a residual interest held by a QIB) are not rated in the "A" category or higher by a Rating Agency or (2) the transferor is a party other than the Funding Lender which must provide the representations with respect to such trust or custodial arrangement as set forth in the definition of "Approved Transferee".

(c) Notwithstanding the other provisions of this Section 2.6, no beneficial ownership interest in the Governmental Lender Note and the Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount; provided, however, that beneficial ownership interests in the Governmental Lender Note and the Funding Loan of the Funding Lender's member banks as participants in its tax exempt loan pool may be held in any amount without regard to the Minimum Beneficial Ownership Amount.

(d) In the case of a transfer of the Governmental Lender Note and the Funding Loan, subject to the foregoing restrictions, the transferor shall not transfer the Governmental Lender Note without prior written approval by the Governmental Lender, provided that, subject to the foregoing transfer restrictions, the transferor shall provide to the Governmental Lender written notice of such proposed transfer not less than 10 calendar days prior to such proposed transfer. If the Governmental Lender fails to deliver written notice to the Fiscal Agent of such determination within 10 calendar days of receipt of notice of proposed transfer, the Fiscal Agent shall conclude that the Governmental Lender has consented to such transfer. Notwithstanding anything to the contrary herein, the Governmental Lender's consent to a transfer of the Governmental Lender Note shall not be required with respect to any transfer to a subsidiary or Affiliate of the then existing Noteowner which transfer otherwise meets the requirements hereof.

(e) The Funding Lender shall indemnify and defend the Governmental Lender, and the officers, directors, employees, attorneys and agents of the Governmental Lender against any claim brought by any transferor or transferee of the Governmental Lender Note in respect of the Governmental Lender Note, this Funding Loan Agreement or any of the Funding Loan Documents in the event that there occurs a transfer of the Governmental Lender Note that is not permitted pursuant to this Section 2.6. Failure to comply with Section 2.6(a) shall cause any purported transfer to be null and void.

(f) The Fiscal Agent shall not authenticate or register a Governmental Lender Note unless the conditions of this Section 2.6 have been satisfied.

(g) 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 E hereto, unless waived in writing by the Governmental Lender.

## **ARTICLE III**

### **PREPAYMENT**

**Section 3.1 Prepayment of the Governmental Lender Note From Prepayment Under the Borrower Note.** The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received by the Governmental Lender or the Fiscal Agent, as provided in the Borrower Loan Agreement, to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior Written Consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note, at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

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

**Section 3.2 Notice of Prepayment.** Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to Funding Lender and the Fiscal Agent in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

**Section 3.3 Recycling Transactions.** Notwithstanding any provision of this Funding Loan Agreement or the Governmental Lender Note to the contrary, the Governmental Lender shall be permitted to direct payments of the Borrower Note prepayments to be transferred to a custodian or trustee selected by the Governmental Lender, in lieu of application to prepay a like portion of the Governmental Lender Note, so long as the Governmental Lender simultaneously causes other

funds to be applied to prepay such portion of the Governmental Lender Note. The preceding provisions of this Section 3.3 shall apply only for purpose of preserving or “recycling” private activity bond volume cap in accordance with Section 146(i)(6) of the Code.

## **ARTICLE IV**

### **SECURITY**

**Section 4.1 Security for the Funding Loan.** To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the terms and provision of this Funding Loan Agreement and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender confirms its earlier assignment of similar rights to the Fiscal Agent as trustee under the Construction Indenture and, to the extent any such rights have been reassigned to the Governmental Lender, by these presents does hereby grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Fiscal Agent and to the Funding Lender, as their interests may appear (except as limited herein), for the benefit of the holder from time to time of the Governmental Lender Note, a lien on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights and amounts excluded from the definition of Pledged Revenues) (said property, rights and privileges being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan, the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents, including, without limitation, all rents, revenues and receipts derived thereunder by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments (except those related to the Unassigned Rights) derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

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

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held by the Fiscal Agent under this Funding Loan Agreement (other than any Rebate Amount held hereunder), subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

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



Loan Agreement may come into the possession or control of the Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, Prepayment Premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

**Section 4.2 Delivery of Security.** To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Fiscal Agent for the benefit of the holder from time to time of the Governmental Lender Note. In connection with such pledge, assignment, transfer and conveyance, the Borrower or the Governmental Lender at the request of the Borrower shall deliver or cause to be delivered to the Fiscal Agent, by or at the direction of the Borrower, and at the sole expense of the Borrower, the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (b) 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 part of the Project, in form suitable for filing; and
- (c) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

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

## ARTICLE V

### LIMITED LIABILITY

**Section 5.1 Source of Payment of Funding Loan and Other Obligations.** The Governmental Lender Note is payable solely from the Pledged Revenues and any other revenues, funds or assets of the Governmental Lender pledged and assigned under this Funding Loan Agreement and not from any other revenues, funds or assets of the Governmental Lender. 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, Prepayment Premium (if any) or interest on the Governmental Lender Note and the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Governmental Lender 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 Governmental Lender Note or this Funding Loan Agreement.

**Section 5.2 Exempt from Individual Liability.** No recourse for the payment of any part of the principal of, premium, if any, or interest on the Governmental Lender Note or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Governmental Lender Note shall be had against the Board of Commissioners, the Board of Supervisors 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 Governmental Lender 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, commissioner, officer, agent or employee of the Governmental Lender or the Board of Commissioners or the County in other than that person's official capacity. No member, commissioner, 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 Governmental Lender Note or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future commissioner, officer, director, employee or agent of the Governmental Lender in his individual capacity, and neither the commissioners, officers, directors, employee or agent of the Governmental Lender in his or her individual capacity, and neither the commissioners, officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement.

**Section 5.3 Limited Obligation.** Notwithstanding any other provision of this Funding Loan Agreement to the contrary:

**THE GOVERNMENTAL LENDER NOTE IS ISSUED IN ACCORDANCE WITH THE ACT AND IS A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE GOVERNMENTAL LENDER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER NOR ANY OFFICIAL OR EMPLOYEE OF THE GOVERNMENTAL LENDER NOR ANY PERSON EXECUTING THE GOVERNMENTAL LENDER NOTE SHALL BE LIABLE PERSONALLY ON THE GOVERNMENTAL LENDER NOTE OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THEIR ISSUANCE. NONE OF THE GOVERNMENTAL LENDER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE GOVERNMENTAL LENDER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE GOVERNMENTAL LENDER NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THE GOVERNMENTAL LENDER NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.**

**Section 5.4 Limitation of Liability to Revenues.** Notwithstanding anything contained in this Funding Loan Agreement, the Governmental Lender shall not be required to advance any moneys derived from the proceeds of taxes collected by the Governmental Lender, the State or by any political subdivision thereof or from any source of income of any of the foregoing other than the Pledged Revenues for any of the purposes mentioned in this Funding Loan Agreement, whether for the payment of the principal of or interest on the Governmental Lender Note or for any other purpose of this Funding Loan Agreement.

## **ARTICLE VI**

### **CLOSING CONDITIONS; APPLICATION OF FUNDS**

**Section 6.1 Conditions Precedent to Conversion.** The Funding Lender's acquisition of the Funding Loan on the Conversion Date shall be conditioned upon satisfaction or waiver by the Funding Lender and the Governmental Lender in their sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original executed Governmental Lender Note registered in the name of the Funding Lender in a principal amount equal to the Permanent Period Amount, and authenticated by the Fiscal Agent;
- (b) Satisfaction of all conditions to the purchase of the Governmental Lender Note by the Funding Lender on the Conversion Date pursuant to the Loan Purchase Agreement;
- (c) Receipt by the Funding Lender and the Fiscal Agent of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Assignment of Deed of Trust (as defined in the Loan Purchase Agreement), and the Assignment of Loan Documents (as defined in the Loan Purchase Agreement);
- (d) Receipt by the Fiscal Agent of the Bonds;
- (e) Receipt by the Fiscal Agent and Governmental Lender of an executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the Funding Lender's acquisition of the Funding Loan, as described and in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- (g) Receipt by the Governmental Lender of a Tax Counsel No Adverse Effect Opinion;
- (h) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and
- (i) Receipt by the Funding Lender and the Governmental Lender of any other documents or opinions that the Funding Lender, the Governmental Lender or Tax Counsel may require.

## **ARTICLE VII**

### **FUNDS AND ACCOUNTS**

**Section 7.1 Authorization to Create Funds and Accounts.** Except as provided in Section 7.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender, the Fiscal Agent (as directed by the Funding Lender) and the Servicer, if any, and any designee of the Funding Lender, the Fiscal Agent, or the Servicer, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

**Section 7.2 Investment of Funds.** Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested in Permitted Investments at the direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate.

**Section 7.3 Establishment of Funds.** There are established and shall continue to be maintained with the Fiscal Agent the following funds and accounts:

- (a) The Bond Fund;
- (b) [Reserved];
- (c) The Expense Fund;
- (d) [Reserved]; and
- (e) The Rebate 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 (except the Expense Fund and the Rebate Fund) shall be held by the Fiscal Agent for the benefit of the Funding Lender, and, except for money held in the Expense Fund and the Rebate Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

All money to be deposited with or paid to the Fiscal Agent shall be wired to the Fiscal Agent pursuant to the wiring instructions contained in Exhibit F attached hereto. The Fiscal Agent shall provide Written Notice of any change to such wiring instructions to the Funding Lender and the Borrower no less than five Business Days prior to the next payment date for which such revised instructions will be applicable.

**Section 7.4 Bond Fund.** The Governmental Lender and the Borrower shall have no interest in the Bond Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Bond Fund any amounts received from the Borrower as payments of principal of, premium, if any, or interest on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

The Fiscal Agent shall apply all amounts on deposit in the Bond Fund in the following order of priority:

First, to pay or provide for the payment of the interest then due on the Funding Loan to the registered owner of the Governmental Lender Note;

Second, to pay or provide for the payment or the prepayment of principal (and premium, if any) on the Funding Loan to the registered owner of the Governmental Lender Note, provided moneys have been transferred or deposited into the Bond Fund for such purpose; and

Third, to pay or provide for the payment of the Funding Loan on the Maturity Date to the registered owner of the Governmental Lender Note.

**Section 7.5 Expense Fund.** 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, the Rebate Analyst, or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender, the Rebate Analyst, 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) on each anniversary of the Closing Date or at the direction of the Governmental Lender, the Ongoing Governmental Lender Fee, (ii) on each [November] 1, commencing [November] 1, 20[\_\_\_], to the Fiscal Agent's Fee due pursuant to subpart (a) of the definition of "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, (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, and (v) the Rebate Analyst's Fee when due.

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

Written notice of any insufficiency, which 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.

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

**Section 7.6 [Reserved].**

**Section 7.7 [Reserved].**

**Section 7.8 Rebate Fund.** 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 pursuant to Section 5.35 of the Borrower Loan Agreement.

(a) **Investments.** Amounts on deposit in the Bond Fund, the Expense Fund, and the Rebate Fund shall be invested in Permitted Investments directed in writing by the Borrower. Investment Income earned on amounts on deposit in each account of the Bond Fund, the Expense Fund, and the Rebate Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Bond Fund, the Expense Fund, and the Rebate Fund.

The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal Agent shall not be liable for any losses from investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Fiscal Agent hereunder.

The amounts received from the sale of the Governmental Lender Note and interest and other investment earnings on those amounts shall have been allocated and used for financing Qualified Project Costs of each building and related land in the Project so that the aggregate basis of each such building and related land, within the meaning of Section 42(h)(4) of the Code, shall have been financed 50% or more from those amounts.

## ARTICLE VIII

### REPRESENTATIONS AND COVENANTS

**Section 8.1 General Representations.** The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a public body, corporate and politic, organized and existing under the laws of the State of California, and 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 indebtedness represented by the Governmental Lender Note and the Funding Loan and apply the proceeds of such indebtedness to finance the Project and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its

performance under, such Funding Loan Documents and all other agreements and instruments relating thereto.

(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 Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby. The Governmental Lender makes no representations as to the necessity of registering the Governmental Lender Note or the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws.

(c) To the 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 as evidenced by the Governmental Lender Note.

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

**Section 8.2 No Encumbrance on Security.** The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.



**Section 8.3 Repayment of Funding Loan.** Solely from amounts pledged therefor, and subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

**Section 8.4 Servicer.** The Funding Lender may appoint a Servicer to service and administer the Funding Loan and/or the Borrower Loan on behalf of the Funding Lender and the Fiscal Agent, including, without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

**Section 8.5 Borrower Loan Agreement Performance.**

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any agreement or covenant of the Governmental Lender under the Borrower Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify or cause to be notified the Borrower, the Fiscal Agent, the Servicer, if any, and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received Written Notice or otherwise has knowledge of such event.

**Section 8.6 Maintenance of Records; Inspection of Records.**

(a) The Fiscal Agent shall keep and maintain adequate records pertaining to any funds and accounts established hereunder by the Fiscal Agent, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Governmental Lender Note and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and Prepayment Premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and its representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and to make copies thereof.

**Section 8.7 Tax Covenants.** The Governmental Lender covenants to and for the benefit of the Fiscal Agent and the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will (subject to the limited liability provisions hereof):

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

(b) 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 Governmental Lender Note to be includable in gross income for federal income tax purposes;

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

(d) Not knowingly take any action or, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, knowingly permit or suffer any action to be taken if the result of the same would be to cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(e) Require the Borrower to agree, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Governmental Lender Note, or any other moneys which may be deemed to be proceeds of the Governmental Lender Note pursuant to the Code, which would cause the Governmental Lender Note to be an “arbitrage bond” within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Governmental Lender Note; and

(f) Require the Borrower, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement and the Tax Certificate, to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower have executed and delivered the Tax Certificate, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full. In the event of any conflict between this Funding Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

For purposes of this Section 8.7 the Governmental Lender’s compliance shall be based solely on matters within the Governmental Lender’s knowledge and control and no acts, omissions or directions of the Borrower, the Fiscal Agent, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

**Section 8.8 Performance by the Borrower.** Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may (but is under no obligation to) perform any such agreement or covenant, but only with the prior written consent of the Funding Lender and only if no Borrower Loan Agreement Default or Potential Default under (and as such term is defined in) the Borrower Loan Agreement exists.

## ARTICLE IX

### DEFAULT

**Section 9.1 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 Governmental Lender Note. The Governmental Lender's, the Fiscal Agent's, the Borrower's and the Funding Lender's remedies with respect to a default under the Funding Loan Documents shall be as set forth under the Funding Loan Documents. The Funding Lender may, upon the acceleration of the Borrower's obligations under the Funding Loan Documents, direct the Fiscal Agent to accelerate the maturity of the Governmental Lender Note and apply any funds available hereunder for such purpose as provided herein (after paying the fees and expenses of the Fiscal Agent and the Governmental Lender). The principal amount of the Governmental Lender Note remaining outstanding shall be deemed paid upon transfer, to or at the direction of the Funding Lender, of the Funding 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, but only upon being satisfactorily indemnified by the Borrower for any fees or expenses relating thereto as provided in the Borrower Loan Agreement and the Regulatory Agreement.

**Section 9.2 Limitation of Liability to Pledged Revenues.** Notwithstanding anything contained in this Funding Loan Agreement, the Governmental Lender shall not be required to advance any moneys derived from the proceeds of taxes collected by the County, by the State or by any political subdivision thereof or from any source of income of any of the foregoing other than the Pledged Revenues for any of the purposes mentioned in this Funding Loan Agreement, whether for the payment of the principal of or interest on the Governmental Lender Note or for any other purpose of this Funding Loan Agreement.

## ARTICLE X

### AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

**Section 10.1 Amendment of Funding Loan Agreement.** Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender, the Fiscal Agent and the Governmental Lender; provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender, the Fiscal Agent or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Governmental Lender, the Funding Lender and the Fiscal Agent.

**Section 10.2 Amendments Require Funding Lender Consent.** Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document (except the Tax Certificate and the Regulatory Agreement) without the prior Written Consent of the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender.

**Section 10.3 Consents and Opinions.** No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and, in the case of this Funding Loan Agreement, the Fiscal Agent should have also approved the same in writing and, and (ii) to the extent requested by the Funding Lender, the Funding Lender and the Fiscal Agent shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

## ARTICLE XI

### THE FISCAL AGENT

**Section 11.1 Appointment of Fiscal Agent; Acceptance.** The Governmental Lender hereby appoints U.S. Bank Trust Company, 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.

**Section 11.2 Certain Duties and Responsibilities of Fiscal Agent.**

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

(b) If an event of default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and subject to Section 11.2(c)(iii) 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 subsection (a) of this Section;

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

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

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Funding Loan Documents to which it is a party and other related documents, solely in its capacity as Fiscal Agent.

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

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

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

(g) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 shall extend to actions taken or omitted in its role as assignee of the Governmental Lender under the Borrower Loan Agreement and the other Funding Loan Documents.

**Section 11.3 Notice of Defaults.** Upon the occurrence of any default hereunder or under any other Funding Loan Document and provided that a Responsible Officer of 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, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

**Section 11.4 Certain Rights of Fiscal Agent.** Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

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

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

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any other Funding Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct, provided that nothing contained in this subparagraph (d) shall be construed to require such security or indemnity for the performance by the Fiscal Agent of its obligations under Article VIII hereof;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters

as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of its powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice; 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 other Funding Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or Ongoing Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Notice of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any other Funding Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

**Section 11.5 Not Responsible for Recitals.** The recitals contained herein and in the Governmental Lender Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

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

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. 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.

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

**Section 11.6 May Hold Funding Loan and the Governmental Lender Note.** The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and the Governmental Lender Note and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not Fiscal Agent.

**Section 11.7 Moneys Held 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.

**Section 11.8 Compensation and Reimbursement.** Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

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

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

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

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

**Section 11.9 Fiscal Agent Required; Eligibility.** Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital 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.



### **Section 11.10 Resignation and Removal; Appointment of Successor.**

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

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 45 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, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), with the Written Consent of the Funding Lender and the Governmental Lender, or (iii) the Funding Lender by Written Notice delivered to the Fiscal Agent, the Governmental Lender 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 Pledged Revenues and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof delivered to the Governmental Lender, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment 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.

### **Section 11.11 Acceptance of Appointment by Successor.**

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall

become vested with all the estates, properties, rights, powers and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent all the estates, properties, rights, powers and duties of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights and powers.

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

**Section 11.12 Merger, Conversion, Consolidation or Succession to Business.** Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Governmental Lender and Funding Lender within 30 days of such succession.

**Section 11.13 Appointment of Co-Fiscal Agent.** It is the purpose of this Funding Loan Agreement that there shall be no violation of any laws of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Funding 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 Written 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 or any Funding Loan Document to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the

exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

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

**Section 11.14 Loan Servicing.** The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Funding Loan and the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

**Section 11.15 No Recourse Against Officers or Employees of Fiscal Agent.** No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.1 Notices.** All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender:      Los Angeles County Development Authority  
700 West Main Street  
Alhambra, CA 91801-3312  
Attention: Vitto Banez, Bond Analyst  
Telephone: (626) 586-1668  
Facsimile: (626) 943-3815

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

If to the Fiscal Agent: U.S. Bank Trust Company, National Association  
633 West 5th Street, 24th Floor  
Los Angeles, CA 90071  
Ref: LA MF (VA Building 402 2022F)  
Facsimile: (213) 453-1019

If to the Borrower: VA Building 402 LP  
c/o Thomas Safran & Associates  
11811 San Vicente Boulevard  
Los Angeles, CA 90049  
Attention: President  
Telephone: (310) 820-4888  
Facsimile: (310) 207-6986

With a copy to: Bocarsly Emden Cowan Esmail & Arndt LLP  
64th Floor  
633 West Fifth Street  
Los Angeles, CA 90071  
Attention: Nicole Deddens  
Facsimile: (213) 559-0765

If to the Equity Investor  
and Special Limited Partner: Wells Fargo Affordable Housing Corp.  
550 South Tryon Street  
23rd Floor, D1086-239  
Charlotte, NC 28202  
Attention: Director of Tax Credit Asset Management

With a copy to: Cannon Heyman & Weiss, LLP  
726 Exchange Street, Suite 500  
Buffalo, NY 14210  
Attention: Constance C. Giessert, Esq.  
Email: cgiessert@chwattys.com

If to the Funding Lender: California Community Reinvestment Corporation  
Suite 1000  
100 West Broadway  
Glendale, CA 91210  
Attention: President

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after

the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

**Section 12.2 Term of Funding Loan Agreement.** This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto; provided however that the rights of the Governmental Lender to indemnity, non-liability and payment of all reasonable fees and expenses shall survive the cancellation and termination of this Funding Loan Agreement pursuant to this Section.

**Section 12.3 Successors and Assigns.** All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not. Except as otherwise provided herein, the terms of this Funding Loan Agreement and the Funding Loan Documents shall bind and inure to the benefit of the heirs, successors and assigns of the parties hereto.

**Section 12.4 Legal Holidays.** In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

**Section 12.5 Governing Law.** This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State.

**Section 12.6 Severability.** If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

**Section 12.7 Execution in Several Counterparts.** This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

**Section 12.8 Nonrecourse Obligation of the Borrower.** Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

**Section 12.9 Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER, THE FISCAL AGENT AND THE FUNDING LENDER, BUT NOT THE GOVERNMENTAL LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN SUCH PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, BUT NOT THE GOVERNMENTAL LENDER, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL. IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

**Section 12.10 Electronic Transactions.** The transactions described in this Funding Loan Agreement may be conducted and the related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 12.11 Reference Date.** This Funding Loan Agreement is dated for reference purposes only as of [\_\_\_\_\_] 1, 20[\_\_\_] and will not be effective and binding upon the parties hereto unless and until the Conversion Date occurs.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

CALIFORNIA COMMUNITY REINVESTMENT CORPORATION, as Funding Lender

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

[Signature Page – Funding Loan Agreement – West LA VA Building 402 Apartments]

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY, as Governmental Lender

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

[\_\_\_\_\_] , County Counsel

\_\_\_\_\_  
Deputy

[Signature Page – Funding Loan Agreement – West LA VA Building 402 Apartments]



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

By \_\_\_\_\_

Name:

Title:

**EXHIBIT A**

**FORM OF GOVERNMENTAL LENDER NOTE**

**THIS GOVERNMENTAL LENDER NOTE MAY BE OWNED ONLY BY AN “APPROVED TRANSFEREE” (AS SUCH TERM IS DEFINED IN THE FUNDING LOAN AGREEMENT REFERENCED BELOW), AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS GOVERNMENTAL LENDER NOTE: (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE, AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE OR ANY INTEREST HEREIN TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.**

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE NOTE  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS)  
2022 Series F**

**DATED [\_\_\_\_\_]**

[\$Permanent Loan Amount]

FOR VALUE RECEIVED, the undersigned LOS ANGELES COUNTY DEVELOPMENT AUTHORITY (together with any assigns or successors thereto, “Obligor”) promises to pay to the order of CALIFORNIA COMMUNITY REINVESTMENT CORPORATION (together with its successors and assigns, “Holder”), solely from amounts pledged therefor under the below-defined Funding Loan Agreement the maximum principal sum of [\_\_\_\_\_] DOLLARS (\$[Permanent Loan Amount]), on [\_\_\_\_\_], or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of [\_\_\_\_\_] 1, 20[\_\_\_] (the “Funding Loan Agreement”), among Obligor, U.S. Bank Trust Company, National Association, as fiscal agent (the “Fiscal Agent”), and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Governmental Lender Note (this “Governmental Lender Note”) then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on this Governmental Lender Note in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of this Governmental Lender Note so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement or the Borrower Loan Agreement.

Obligor shall pay to the Holder on or before each date on which interest on this Governmental Lender Note is payable interest on the unpaid balance hereof in an amount in

immediately available funds sufficient to pay the interest on this Governmental Lender Note then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to VA Building 402 LP, a California limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of [\_\_\_\_\_] 1, 20[\_\_\_] (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under this Governmental Lender Note.

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

**THIS GOVERNMENTAL LENDER NOTE IS ISSUED IN ACCORDANCE WITH THE ACT AND IS A LIMITED OBLIGATION OF THE OBLIGOR PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE OBLIGOR PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE OBLIGOR. NEITHER THE OBLIGOR NOR ANY OFFICIAL OR EMPLOYEE OF THE OBLIGOR NOR ANY PERSON EXECUTING THIS GOVERNMENTAL LENDER NOTE SHALL BE LIABLE PERSONALLY ON THIS GOVERNMENTAL LENDER NOTE OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE OBLIGOR, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE OBLIGOR TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THIS GOVERNMENTAL LENDER NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THIS GOVERNMENTAL LENDER NOTE OR ANY OF THE OBLIGOR'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING**

**WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE OBLIGOR HAS NO TAXING POWER.**

**THIS GOVERNMENTAL LENDER NOTE HAS BEEN ISSUED IN ACCORDANCE WITH THE ACT.**

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or under the Funding Loan Agreement at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity, and those respecting limitations on liability in Article V of the Funding Loan Agreement.

The rights and remedies of the Holder hereof during the occurrence of a default are as set forth in the Funding Loan Agreement. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

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

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement, but solely from the Pledged Revenues, the Security, or amounts provided by the Borrower.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to

pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note or caused this Governmental Lender Note to be duly executed and delivered by its authorized representative as of the date first set forth above.

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY

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

ATTEST:

CELIA ZAVALA  
Executive Officer of the  
Board of Commissioners

\_\_\_\_\_  
Deputy

CERTIFICATE OF AUTHENTICATION

This Governmental Lender Note is the Governmental Lender Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: \_\_\_\_\_

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Fiscal Agent

By \_\_\_\_\_

Name:

Title:

**EXHIBIT B**

**FORM OF REQUIRED TRANSFEREE REPRESENTATIONS**

[\_\_\_\_\_, 20\_\_]

Los Angeles County Development Authority  
Alhambra, California

Kutak Rock LLP  
Omaha, Nebraska

U.S. Bank Trust Company, National Association  
Los Angeles, California

  \$[Permanent Loan Amount]  
                                  Los Angeles County Development Authority  
  Multifamily Housing Revenue Note  
                                  (West Los Angeles VA Campus Building 402 Apartments)  
  2022 Series F

1. The undersigned, as holder (the “Holder”) proposes to purchase all of the aggregate principal amount of the above-captioned note (the “Note”) issued pursuant to that certain Funding Loan Agreement dated as of [\_\_\_\_\_] 1, 20[\_\_\_] (the “Funding Loan Agreement”), by and among the Los Angeles County Development Authority (the “Governmental Lender”), U.S. Bank Trust Company, National Association, as Fiscal Agent and California Community Reinvestment Corporation, as Funding Lender (the “Funding Lender”). The Holder understands that the Note is not rated by any securities rating agency and is secured only by the Project and the revenues therefrom, and will only be sold to the Holder with the 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 issuance and sale of the Note. The Holder has requested and received all materials which the Holder has deemed relevant in connection with its purchase of the Note (the “Offering Information”). The Holder has reviewed the documents executed in conjunction with the issuance of the Note, including, without limitation, the Funding Loan Agreement and the Borrower Loan Agreement. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding 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 Funding Lender, counsel to the Funding Lender and Tax Counsel in connection with the authorization, execution and delivery of the Note and Holder’s purchase of the Note. 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 Funding Lender, counsel to the Funding Lender 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 Investor in connection with the Holder's purchase of the Note. In making an investment decision, the Holder is relying upon its own examination of the Governmental Lender, the Borrower, the Project and the terms of the offering.

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 Note, and the Holder has obtained all additional information requested by it in connection with the Note.

4. The Holder has sufficient knowledge and experience in business and financial matters in general, and investments such as the Note in particular, and is capable of evaluating the merits and risks involved in an investment in the Note. The Holder is able to bear the economic risk of, and an entire loss of, an investment in the Note.

5. The Holder is purchasing the Note solely for its own account for investment purposes and has no present intention to resell or distribute the Note, provided that the Holder reserves the right to transfer or dispose of the 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 these Required Transferee Representations. The Holder hereby agrees that, except as otherwise set forth in the Funding Loan Agreement, the Note may only be transferred in whole and in accordance with the Funding Loan Agreement to a single investor, which must execute and deliver to the parties addressed above a form of these Required Transferee Representations.

6. The Holder agrees that it will only offer, sell, pledge, transfer or exchange the Note (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act, (ii) in accordance with any applicable state securities laws, and (iii) to an Approved Transferee subject to the conditions set forth in the Funding Loan Agreement. The Holder acknowledges that written consent of the Governmental Lender is required in order to transfer the Note, except as set forth in the Funding Loan Agreement. The Holder further agrees that the Note will not be transferred to or held in a pool, trust or similar arrangement and that it will not sell any participating interest in the Note without the prior written consent of the Governmental Lender except the Note may be transferred to an Approved Transferee subject to the conditions of the Funding Loan Agreement.

7. The Holder is an Approved Transferee.

8. If the Holder sells the Note (or any legal or beneficial interest therein), the Holder or its agent will obtain for the benefit of each of you from any subsequent purchaser Required Transferee Representations in the form of these Required Transferee Representations or such other materials as are required by the 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 Note prior to receipt of such Required Transferee Representations and the written consent of the Governmental Lender.

9. Neither the Funding Lender, 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 Investor for the accuracy or completeness of information obtained by the Holder from any source regarding the Project, the Governmental Lender, the Borrower or their financial conditions or regarding the 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 Offering 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 purchase the Note and (b) the Offering 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 Project and the Borrower) prior to its purchase of the Note, that Holder has deemed necessary or desirable in connection with its decision to purchase the Note.

10. The Holder understands that (a) the 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 Note, and the Holder acknowledges that the Note is a speculative investment and that there is a high degree of risk in such investment.

11. The Holder acknowledges that the 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 Note on a conduit, nonrecourse basis, and has no continuing obligations with respect thereto except as expressly set forth in the Funding Loan Agreement and that the Governmental Lender has no taxing power.

12. The Holder has the authority to purchase the Note and to execute these representations and other documents and instruments required to be executed by the Holder in connection with its purchase of the Note. The individual who is executing these representations 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 these representations on behalf of the Holder.

13. 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 of its interests in the Note in violation of the provisions hereof or of the Funding Loan Agreement or any inaccuracy in any statement made by the Holder in these representations.

[Remainder of page intentionally left blank.]

[Signature Page to Required Transferee Representations]

**CALIFORNIA COMMUNITY  
REINVESTMENT CORPORATION**, as Holder

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

Name:

Title:

**EXHIBIT C**  
**[RESERVED]**

**EXHIBIT D**  
**[RESERVED]**

## **EXHIBIT E**

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

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

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

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

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

LACDA 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. LACDA reserves the right to impose these minimum requirements on bond issues for which LACDA 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 a “Sophisticated Investor” which is an entity meeting the definition of a “Qualified Institutional Buyer” as defined in Section 144A(a) of the Securities Act of 1933, as amended, or an institutional “Accredited Investor” as described in Rule 501(a)(1), (2), (3) or (8) promulgated under the Securities Act of 1933, as amended.
3. The bondholder must provide an investor letter in a form acceptable to LACDA wherein it acknowledges having sufficient knowledge and experience to evaluate the real estate investment.
4. LACDA must approve all transfers of bond ownership.
5. Subsequent bondholders must be a Sophisticated 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 LACDA.

7. The developer must indemnify LACDA, 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 LACDA.

**EXHIBIT F**

**FISCAL AGENT WIRING INSTRUCTIONS**

[To be confirmed at execution]

Bank Name: U.S. Bank Trust Company, National Association

Bank City and State:

ABA Number:

Account Name:

Account Number:

For Further Credit  
Account Name:

Reference:



**EXHIBIT B TO LOAN PURCHASE AGREEMENT  
FORM OF  
BORROWER LOAN AGREEMENT**

between

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
as Governmental Lender,

and

**VA BUILDING 402 LP,**  
a California limited partnership,  
as Borrower

Dated as of [\_\_\_\_\_] 1, 20[\_\_\_]

Relating to:

    \$[Permanent Loan Amount]  
    Los Angeles County Development Authority  
    Multifamily Housing Revenue Note  
    (West Los Angeles VA Campus Building 402 Apartments)  
    2022 Series F

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent") and to California Community Reinvestment Corporation, as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and among the Los Angeles County Development Authority (the "Governmental Lender"), the Fiscal Agent and the Funding Lender, under which the Funding Lender is acquiring a loan to the Governmental Lender the proceeds of which were to be used to make the Borrower Loan (as defined herein) under a Loan Agreement, dated as of [November] 1, 2022, between the Governmental Lender, as issuer, and the Borrower.

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EXHIBIT A MULTI-FAMILY BOND POLICIES AND PROCEDURES

## **BORROWER LOAN AGREEMENT**

**THIS BORROWER LOAN AGREEMENT** (this “Borrower Loan Agreement”) is entered into as of the first day of [\_\_\_\_\_], 20[\_\_\_], between the **LOS ANGELES COUNTY DEVELOPMENT AUTHORITY**, public body, corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the “Governmental Lender”) and **VA BUILDING 402 LP**, a California limited partnership (together with its successors and assigns, the “Borrower”).

### **WITNESSETH:**

#### **RECITALS**

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as amended (the “Act”), the Governmental Lender is empowered to issue bonds and other evidence to assist in the financing of one or more multifamily rental housing projects authorized under the Act for such payments and upon such terms and conditions as the Governmental Lender may deem advisable in accordance with the provisions of the Act; and

WHEREAS, the Act authorizes the Governmental Lender: (a) to make loans to provide financing for multifamily residential housing located within the jurisdiction of the Governmental Lender, in this instance, specifically, the County of Los Angeles (the “County”); (b) to issue its revenue bonds, notes or other evidence of indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, in order to secure the payment of the principal or prepayment amount of and interest on such bonds, debentures, notes or other evidence of indebtedness; and

WHEREAS, VA Building 402 LP, a California limited partnership (together with its successors and assigns, the “Borrower”), has previously requested that the Governmental Lender enter into a Trust Indenture dated as of [November] 1, 2022 (the “Construction Indenture”), between the Governmental Lender, as issuer, and U.S. Bank Trust Company, National Association, as trustee, under which the Governmental Lender issued its Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F (the “Bonds”) in the aggregate principal amount of \$33,755,000 and used the proceeds from the sale thereof to make a loan to the Borrower (the “Borrower Loan”) pursuant to a Loan Agreement dated as of [November] 1, 2022 (the “Construction Loan Agreement”), between the Governmental Lender, as issuer, and the Borrower to finance the acquisition, construction, improvement and equipping of a 120-unit (including two manager units) multifamily rental housing development located at 11301 Wilshire Boulevard, Building 402, in unincorporated Los Angeles County, California, to be known as West Los Angeles VA Campus Building 402 Apartments (the “Project”); and

WHEREAS, to evidence its payment obligations under the Construction Loan Agreement, the Borrower executed and delivered to the Governmental Lender a promissory note dated [November \_\_\_\_], 2022 (the “Construction Borrower Note”); and

WHEREAS, as security for the Bond, the Governmental Lender assigned all of its interests, except for the Reserved Rights (as defined in the Construction Indenture), in the Borrower Loan and the Construction Borrower Note to U.S. Bank Trust Company, National Association, as trustee, for the benefit of the holders of the Bonds, for security purposes only; and

WHEREAS, the Borrower, California Community Reinvestment Corporation (the “Funding Lender”), Wells Fargo Bank, National Association (the “Construction Lender”), the Governmental Lender, and U.S. Bank Trust Company, National Association, as trustee, entered into that certain Loan Purchase Agreement dated as of [November] 1, 2022 (as may be amended, the “Loan Purchase Agreement”), pursuant to which the Funding Lender agreed to acquire up to \$[Permanent Loan Amount] (the “Borrower Loan Amount”) in principal amount of the Bonds, the Borrower Loan and the Construction Borrower Note upon the satisfactions of the terms and conditions set forth therein; and

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the “Funding Loan Agreement”), among the Governmental Lender, the Funding Lender, and U.S. Bank Trust Company, National Association, as fiscal agent (the “Fiscal Agent”), under which the Funding Lender will acquire the remaining interests in the Bonds (subject to the conversion thereof to the Governmental Lender Note as a condition of such acquisition), the Borrower Loan, and the construction Borrower Note by making a loan to the Governmental Lender of the Borrower Loan Amount (the “Funding Loan”); and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Construction and Permanent Leasehold Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time, the “Security Instrument”), originally made by the Borrower for the benefit of the Construction Lender and assigned by the Construction Lender to the Fiscal Agent to secure the Funding Loan pursuant to an Assignment of Deed of Trust and Subordination Agreements dated as of the date hereof, encumbering the Project; and

WHEREAS, as a condition of the Funding Lender’s purchase of a portion of the Bonds, the Borrower Loan and the Construction Borrower Note, the Funding Lender requires that the Governmental Lender, the Fiscal Agent, and the Borrower enter into certain agreements, including this Borrower Loan Agreement, the Funding Loan Agreement, and the Borrower Note in order to amend and restate the Construction Indenture, the Construction Loan Agreement and the Construction Borrower Note.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:



## ARTICLE I

### DEFINITIONS; PRINCIPLES OF CONSTRUCTION

**Section 1.1. Specific Definitions.** For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Loan Purchase Agreement or, if not defined in the Loan Purchase Agreement, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to Sections and schedules are to those in this Borrower Loan Agreement, (ii) the words “hereof,” “herein” and “hereunder” and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word “including” means “including but not limited to.”

**Section 1.2. Definitions.** The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

“*Act*” shall mean Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State, as now in effect and as it may from time to time hereafter be amended and supplemented.

“*Act of Bankruptcy*” shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after the commencement thereof.

“*ADA*” shall have the meaning set forth in Section 4.1.38 hereof.

“*Additional Borrower Payments*” shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default) and Section 5.14 (Expenses) and Section 10 (Prepayments) of the Borrower Note.

“*Agreement of Environmental Indemnification*” shall mean the Hazardous Materials Indemnity Agreement (Unsecured) (Borrower), of even date herewith, executed by the Borrower for the benefit of the Funding Lender.

“*Appraisal*” shall mean an appraisal of the Project and Improvements, which appraisal shall be (i) performed by a qualified appraiser licensed in the State selected by the Funding Lender, and (ii) satisfactory to the Funding Lender (including, without limitation, as adjusted pursuant to any internal review thereof by the Funding Lender) in all respects.

“*Architect*” shall mean any licensed architect, space planner or design professional that the Borrower may engage from time to time, with the approval of the Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

“*Architect’s Agreement*” shall mean any agreement that the Borrower and any Architect from time to time may execute pursuant to which the Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by the Funding Lender.

“*Authorized Borrower Representative*” shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“*Bankruptcy Code*” shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“*Bankruptcy Event*” shall mean (i) the filing of a petition by the Borrower, the General Partner, the Guarantor or any other person or entity which is in any manner obligated to the Funding Lender under or in connection with the Loan Documents (each, a “*Bankruptcy Party*”) for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (ii) the failure of any Bankruptcy Party to effect a full dismissal of any involuntary petition under the Bankruptcy Code or under any other debtor relief law that is filed against such Bankruptcy Party or in any way restrains or limits such Bankruptcy Party, the Governmental Lender or the Funding Lender regarding the Borrower Loan or the Project prior to the earlier of the entry of any court order granting relief sought in such involuntary petition or 60 days after the date of filing of such involuntary petition; (iii) the filing of any pleading or an answer by any Bankruptcy Party in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition’s material allegations regarding the Borrower’s insolvency; (iv) a general assignment by any Bankruptcy Party for the benefit of creditors; or (v) any Bankruptcy Party applying for, or the appointment of, a receiver, trustee, custodian or liquidator of any Bankruptcy Party or any of its property.

“*Bankruptcy Proceeding*” shall have the meaning set forth in Section 4.1.8 hereof.

“*Beneficiary Parties*” shall mean, collectively, the Funding Lender, the Servicer, the Fiscal Agent and the Governmental Lender.

“*Borrower*” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“*Borrower Affiliate*” shall mean, as to the Borrower, its general partners or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the Borrower, its general partners or the Guarantor, (ii) any corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its general partners or the Guarantor, (iii) any partner, shareholder or, if a limited liability company, member of the Borrower, its general partners or the Guarantor, or (iv) any other person that is related (to the third degree of consanguinity) by blood or marriage to the Borrower, its general partners or the Guarantor (to the extent any of the Borrower, its general partners or the Guarantor is a natural person).

“*Borrower Controlling Entity*” shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower, or if the Borrower is a not for profit corporation, the shareholders thereof.

“*Borrower Loan*” shall mean the loan originally made by the Governmental Lender to the Borrower pursuant to the Construction Loan Agreement and in the amount of \$[Permanent Loan Amount] outstanding on the Conversion Date, as evidenced by the Borrower Note.

“*Borrower Loan Agreement*” shall mean this Borrower Loan Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“*Borrower Loan Amount*” shall mean \$[Permanent Loan Amount], the outstanding principal amount of the Borrower Note on the Conversion Date.

“*Borrower Loan Documents*” shall mean this Borrower Loan Agreement, the Borrower Note, the Security Instrument, the Permanent Funding Agreement, and all other documents or agreements evidencing or relating to the Borrower Loan.

“*Borrower Loan Payment Date*” shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, (ii) the scheduled maturity date under the Borrower Note, and (iii) any other date on which the Borrower Note is prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

“*Borrower Loan Payments*” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“*Borrower Note*” shall mean that certain Amended and Restated Promissory Note dated the Conversion Date in the original principal amount of the Borrower Loan Amount made by the Borrower and payable to Fiscal Agent, as it may be amended, supplemented or replaced from time to time, which Amended and Restated Promissory Note amends and restates the Construction Borrower Note, previously endorsed by the Governmental Lender, as issuer, to the Fiscal Agent, as trustee.

“*Borrower Payment Obligations*” shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“*Business Day*” shall mean any day other than (i) a Saturday or a Sunday, (ii) a day on which federally insured depository institutions in the State or in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed, or (iii) a State holiday when the Governmental Lender is authorized or obligated to be closed.

“*Calendar Month*” shall mean each of the 12 calendar months of the year.

“*CC&R’s*” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Subject Property.

“*Closing Date*” shall mean [November] [\_\_\_], 2022, the date that the initial Borrower Loan proceeds were disbursed.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended, as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Conversion Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“*Collateral*” shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Governmental Lender and/or the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) [reserved], (iii) the Security Instrument, or (iv) any other Borrower Loan Document, which Collateral shall include the Project, all of which collateral (exclusive of the Unassigned Rights) is pledged and assigned to the Fiscal Agent and the Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“*Computation Date*” shall have the meaning ascribed thereto in Section 1.148-3(e) of the Regulations.

“*Condemnation*” shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“*Construction Borrower Note*” shall mean the Promissory Note dated the Closing Date in the original maximum principal amount of \$33,755,000 made by the Borrower and payable to the Governmental Lender, as issuer, as endorsed and assigned to the Fiscal Agent, as trustee.

“*Contractor*” shall mean any licensed general contractor or subcontractor that the Borrower may directly engage from time to time, with the approval of the Funding Lender, to construct any portion of the Improvements.

“*Contractual Obligation*” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or

agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“*Conversion Conditions*” shall have the meaning given to that term in the Loan Purchase Agreement.

“*Conversion Date*” shall mean [\_\_\_\_\_], the date upon which the Funding Lender purchases the Governmental Lender Note and the interest of the Funding Lender in the Borrower Loan through funding the Funding Loan to the Governmental Lender, and assumes the role of Funding Lender under the Funding Loan Documents.

“*County*” shall mean Los Angeles County, California.

“*Day*” or “*Days*” shall mean calendar days unless expressly stated to be Business Days.

“*Debt*” shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“*Default Rate*” shall have the meaning given to that term in the Borrower Note.

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

“*Engineer*” shall mean any licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that the Borrower may engage from time to time, with the approval of the Funding Lender, to perform any engineering services with respect to any portion of the Improvements.

“*Engineer’s Contract*” shall mean any agreement that the Borrower and any Engineer from time to time may execute pursuant to which the Borrower engages such Engineer to perform any engineering services with respect to any portion of the Improvements, as approved by the Funding Lender.

“*Equipment*” shall have the meaning given to such term in the UCC.

“*Equity Investor*” shall mean Wells Fargo Affordable Housing Corp., a North Carolina corporation, as the investor limited partner of the Borrower, and such entity’s successors and assigns in accordance with the terms of the Permanent Funding Agreement and the Partnership Agreement.

“*ERISA*” shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“*ERISA Affiliate*” shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“*Event of Default*” shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall “exist” if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“*Excess Revenues*” shall have the meaning ascribed thereto in Section 2.2(e) hereof.

“*Exchange Act*” shall mean the Securities Exchange Act of 1934, as amended.

“*Expenses of the Project*” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g., repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), payments due under the Ground Lease, a property management fee (however characterized) not to exceed 5% of the gross rental income of the Project, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“*Fair Market Value*” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” shall mean the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance

with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“*Fiscal Agent*” shall mean U.S. Bank Trust Company, National Association, in its capacity as Fiscal Agent to the Governmental Lender, its successors and assigns.

“*Funding Lender*” shall mean California Community Reinvestment Corporation, and its successors and assigns, as holder of the Governmental Lender Note.

“*Funding Loan*” shall mean the Funding Loan in the outstanding principal amount of \$[Permanent Loan Amount] made on the Conversion Date by the Funding Lender to the Governmental Lender under the Funding Loan Agreement, the proceeds of which are to be used by the Governmental Lender to make the Borrower Loan.

“*Funding Loan Agreement*” shall mean the Funding Loan Agreement, of even date herewith, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“*Funding Loan Documents*” shall have the meaning given to that term in the Funding Loan Agreement.

“*GAAP*” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“*General Partner*” shall mean, collectively, (i) VA Building 402 LLC, a California limited liability company, as administrative general partner of the Borrower, (ii) Housing Corporation of America, a Utah nonprofit corporation, its managing general partner, (iii) West LA Veterans Collective, LLC, a California limited liability company, its co-general partner, and/or (iv) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted without the Funding Lender’s approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

“*Governmental Authority*” shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

“*Governmental Lender*” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“*Governmental Lender Note*” shall mean that certain Los Angeles County Development Authority Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F, dated the Conversion Date in the principal amount of the Funding Loan made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

“*Governmental Lender’s Closing Fee*” shall mean the Governmental Lender’s issuance fee paid by the Borrower to the Governmental Lender on or before the Closing Date in the amount and payable as set forth in Section 7(n) of the Regulatory Agreement.

“*Gross Income*” shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of the Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by the Borrower in accordance with applicable law.

“*Gross Proceeds*” shall mean, without duplication, the aggregate of:

(a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

“*Ground Lease*” shall mean that certain Sublease Agreement dated [\_\_\_\_\_], by and between West LA Veteran Collective, LLC, a California limited liability company, as principal developer or sublessor, and the Borrower, as sublessee.

“*Guarantor*” means any person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan.

“*Guaranty*” shall mean any guaranty executed by any Guarantor for the benefit of the Funding Lender or the Fiscal Agent in connection with the Borrower Loan in effect from and after the Conversion Date.



“*Hazardous Materials Laws*” has the meaning given to such term in the Agreement of Environmental Indemnification.

“*Improvements*” shall mean the 120-unit (including two manager units) multifamily residential project to be acquired and constructed upon the Land and known or to be known as West Los Angeles VA Campus Building 402 Apartments and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be constructed and/or installed at or on the Land.

“*Indemnified Party*” shall have the meaning set forth in Section 5.15 hereof.

“*Installment Computation Date*” shall mean any Computation Date other than the first Computation Date or the final Computation Date.

“*Interest Rate*” shall mean the rate or rates of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“*Land*” shall mean the real property described on Exhibit A to the Security Instrument.

“*Late Charge*” shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note.

“*Legal Action*” shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“*Legal Requirements*” shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) of the Borrower or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

“*Liabilities*” shall have the meaning set forth in Section 5.15 hereof.

“*Licenses*” shall have the meaning set forth in Section 4.1.22 hereof.

“*Lien*” shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “*Lien*” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“*Loan Purchase Agreement*” shall mean the Loan Purchase Agreement described in the recitals of this Borrower Loan Agreement.

“*Management Agreement*” shall mean the management agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“*Manager*” shall mean Thomas Safran and Associates, Inc., or any other management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

“*Material Adverse Change*” shall mean any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations of the Borrower, General Partner, Guarantor or the Subject Property; (c) could reasonably be expected to impair materially the ability of the Borrower, General Partner or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of the Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

“*Moody’s*” shall mean Moody’s Investors Service, Inc., or its successor.

“*Net Operating Income*” shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

“*Nonpurpose Investment*” shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

“*Ongoing Governmental Lender Fee*” shall mean the annual fee of the Governmental Lender in the amount, and payable, as set forth in Section 7(n) of the Regulatory Agreement.

“*Other Charges*” shall mean all maintenance charges, impositions other than Taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“*Partnership Agreement*” shall mean that certain Amended and Restated Agreement of Limited Partnership of the Borrower dated and entered into as of the Closing Date, as the same may be amended, restated or modified in accordance with its terms.

“*Patriot Act*” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“*Patriot Act Offense*” shall have the meaning set forth in Section 4.1.48 hereof.

“*Permanent Funding Agreement*” means that certain Permanent Period Funding Agreement of even date herewith, executed by and between the Funding Lender and the Borrower, which supplements the terms of this Borrower Loan Agreement.

“*Permitted Encumbrances*” means the title exceptions approved by the Funding Lender to appear on the Title Insurance Policy.

“*Permitted Lease*” shall mean a lease and occupancy agreement pursuant to the form approved by the Funding Lender, to a residential tenant in compliance with the Legal Requirements and the Borrower Loan Documents, providing for an initial term of not less than six months nor more than two years.

“*Person*” shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“*Plan*” shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“*Plans and Specifications*” shall mean the plans and specifications for the construction of the Project, as approved by the Funding Lender.

“*Potential Default*” shall mean the occurrence of an event which, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice or the passage of time, or both, be an Event of Default.

“*Prepayment Premium*” shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

“*Project*” shall mean the Subject Property and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to therein as the “Subject Property.”

“*Project Agreements and Licenses*” shall mean any and all Construction Contracts, Engineer’s Contracts, Architect’s Agreements and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Subject Property.

“*Provided Information*” shall have the meaning set forth in Section 9.1.1 (a) hereof.

“*Qualified Project Costs*” shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1), provided, however, that only such portion of interest accrued during construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by a Borrower Affiliate or persons or entities treated as related to the Borrower within the meaning of Sections 1504, 267 and 707 of the Code (whether as a general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out-of-pocket costs incurred by such Borrower Affiliate, person or entity in constructing the Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such Borrower Affiliate, person or entity, and (C) any overhead expenses incurred by such Borrower Affiliate, person or entity 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 Borrower Affiliate, person or entity due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code; (iii) the costs are paid after the earlier of 60 days prior to the date of a declaration, August 10, 2021, of “official intent” to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the United States Treasury Regulations) or the date of issue of the Governmental Lender Note; and (iv) if the costs of the acquisition and construction were previously paid and are to be reimbursed with proceeds of the Governmental Lender Note such costs were (A) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the Project that do not exceed 20% of the issue price of the Governmental Lender Note (as defined in United States Treasury Regulations Section 1.148-1), or (B) capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditure is paid); provided, however, that (w) [reserved]; (x) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Project Costs.

“*Rebate Amount*” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“*Rebate Analyst*” shall mean the rebate analyst selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be Kutak Rock LLP.

“*Rebate Analyst’s Fee*” shall mean the fee of the Rebate Analyst. The Rebate Analyst’s Fee is payable by the Borrower to the Rebate Analyst.

“*Rebate Fund*” shall mean the Rebate Fund held by the Fiscal Agent and created pursuant to the Funding Loan Agreement.

“*Regulatory Agreement*” shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [November] 1, 2022, among the Governmental Lender, the Fiscal Agent and the Borrower, as the same may be amended, modified or supplemented from time to time.

“*Related Documents*” shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), the Partnership Agreement, and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement.

“*Rents*” shall have the meaning ascribed to the term “Payments” in the Security Instrument.

“*Replacement Reserve Agreement*” shall mean the Replacement Reserve Agreement between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

“*Replacement Reserve Fund Requirement*” shall mean Borrower’s funding obligations from time to time under the Replacement Reserve Agreement.

“*Secondary Market Disclosure Document*” shall have the meaning set forth in Section 9.1.2 hereof.

“*Secondary Market Transaction*” shall have the meaning set forth in Section 9.1.1 hereof.

“*Securities*” shall have the meaning set forth in Section 9.1.1 hereof.

“*Securities Act*” shall mean the Securities Act of 1933, as amended.

“*Security Documents*” shall mean the Security Instrument, the Replacement Reserve Agreement, this Borrower Loan Agreement, the collateral assignments and other agreements executed by the Borrower with or in favor of the Funding Lender or the Fiscal Agent (whether directly or by assignment from the Construction Lender) and such other security instruments that the Funding Lender may reasonably request.

“*Security Instrument*” shall have the meaning set forth in the recitals to this Borrower Loan Agreement, as the same may be modified, amended or restated.

“*Servicer*” shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. From and after the Conversion Date, the Servicer shall be California Community Reinvestment Corporation.

“*Servicing Agreement*” shall mean any servicing agreement or master servicing agreement, between the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

“*S&P*” shall mean S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, and its successors.

“*State*” shall mean the State of California.

“*Subject Property*” shall have the meaning given to such term in the Security Instrument.

“*Subordinate Debt*” shall have the meaning ascribed to the term “Permitted Subordinate Loans” in the Permanent Funding Agreement.

“*Subordinate Lender*” shall mean individually and collectively as the context shall require, each of the lenders of the Subordinate Debt.

“*Subordinate Loan Documents*” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by the Borrower and/or the Subordinate Lender in connection with the Subordinate Debt.

“*Tax Counsel*” shall have the meaning set forth in the Funding Loan Agreement.

“*Taxes*” shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project.

“*Term*” shall mean the term of this Borrower Loan Agreement pursuant to Section 10.13.

“*Title Company*” shall mean Commonwealth Land Title Company.

“*Title Insurance Policy*” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Subject Property and insuring the lien of the Security Instrument.

“*Transfer*” shall mean any sale, assignment, lease, conveyance, pledge, encumbrance, hypothecation or other disposition of any real or personal property which is prohibited by, or requires the consent of the beneficiary under, the Security Instrument.

“*UCC*” shall mean the Uniform Commercial Code as in effect in the State.

“*Unassigned Rights*” shall have the meaning given to that term in the Funding Loan Agreement.

“*Unit*” shall mean a residential apartment unit within the Improvements.

“*Written Consent*” and “*Written Notice*” shall mean a written consent or notice signed by an Authorized Borrower Representative or an Authorized Governmental Lender Representative or an authorized representative of the Funding Lender, as appropriate.

## ARTICLE II

### GENERAL

**Section 2.1. Acquisition of Borrower Loan.** In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, pursuant to and in accordance with the Act, enter into the Funding Loan Agreement.

The Governmental Lender hereby assigns to the Funding Lender (other than with respect to the Unassigned Rights) all rights to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof to the extent those actions and remedies are not delegated to the Fiscal Agent. This assignment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to the Funding Lender as assignee to the extent those actions and remedies are not delegated to the Fiscal Agent. The Funding Lender may, in its discretion, designate Servicer to fulfill the rights and responsibilities granted by the Governmental Lender to the Funding Lender pursuant to this Section 2.1.

### **Section 2.2. Security for the Funding Loan.**

(a) As security for the Funding Loan, the Governmental Lender has reaffirmed its prior assignment of rights to the Fiscal Agent and, to the extent any of such rights previously assigned have been reassigned to the Governmental Lender, has pledged and assigned to the Fiscal Agent and the Funding Lender, as applicable, under and pursuant to the Funding Loan Agreement (a) the Borrower Note and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (b) the amounts on deposit from time to time in any and all funds and accounts established under the Funding Loan Agreement (except the Expense Fund and the Rebate Fund). All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Fiscal Agent and Funding Lender, as applicable.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) Tax Covenants. Seek specific performance of, and enforce, the tax covenants of the Funding Loan Agreement, the Regulatory Agreement, the Tax Certificate and this Borrower Loan Agreement, seek injunctive relief against acts which may be in violation of any of the tax covenants, and enforce the Borrower's obligation to pay amounts for credit to the Rebate Fund;

(ii) Regulatory Agreement. Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages (which term shall not be deemed to include fees, expenses and indemnification obligations payable by the Borrower to the Governmental Lender under the Regulatory Agreement or this Borrower Loan Agreement) only against Excess Revenues (defined below), if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) Unassigned Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights; provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages (which term shall not be deemed to include fees, expenses and indemnification obligations payable by the Borrower to the Governmental Lender under the Regulatory Agreement or this Borrower Loan Agreement) against Excess Revenues, if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by the Fiscal Agent, the Funding Lender or the Servicer of any of their rights under the Borrower Loan Documents upon the



occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan Documents; or

(iv) except as permitted under the Funding Loan Agreement, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section 2.2, the term “Excess Revenues” means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to agreement, but excluding depreciation and amortization of intangibles.

### **Section 2.3. Loan; Borrower Note; Conditions to Conversion.**

(a) The Funding Loan shall be funded by the Funding Lender upon satisfaction of the conditions set forth in the Loan Purchase Agreement and the Funding Loan Agreement. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note. The proceeds of the Borrower Loan have been used by the Borrower to pay costs of the acquisition, construction, development, equipping and/or operation of the Project. The Borrower hereby reaffirms its acceptance the Borrower Loan. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender to the Fiscal Agent for the account of the Governmental Lender.

(b) As evidence of its obligation to repay the Borrower Loan, simultaneously with its execution and delivery of this Borrower Loan Agreement, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(c) The Funding Lender’s acquisition of the Funding Loan and the interests in the Borrower Loan on the Conversion Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender each in their sole discretion of each

of the conditions precedent to closing set forth in this Borrower Loan Agreement, the Funding Loan Agreement, and the Loan Purchase Agreement, including, but not limited to, the following:

(i) Satisfaction of all conditions to the purchase of the Governmental Lender Note representing the Funding Loan by the Funding Lender on the Conversion Date pursuant to the Loan Purchase Agreement;

(ii) payment of all fees payable in connection with the acquisition of the Borrower Loan including the Governmental Lender's fees and expenses and those of its counsel and Tax Counsel due in connection with the execution and delivery of this Borrower Loan Agreement; and

(iii) delivery of an opinion of counsel to the Borrower and the Guarantor addressed to the Governmental Lender, the Fiscal Agent and the Funding Lender, dated the Conversion Date, in form and substance acceptable to Tax Counsel, regarding the due execution by the Borrower and the Guarantor of, and the enforceability against the Borrower and the Guarantor of, the Borrower Loan Documents which will be executed as of the Conversion Date.

#### **Section 2.4. Borrower Loan Payments.**

(a) The Borrower shall make the Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Servicer by 3:00 p.m., Pacific time, on the Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent or Servicer, as applicable, by deposit to such account as the Fiscal Agent or Servicer, as applicable, may designate by Written Notice to the Borrower. Payments made on the Borrower Note shall be passed through to the Funding Lender by the Fiscal Agent on the Borrower Loan Payment date and in the same amount as a like payment on the Governmental Lender Note. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set-offs or counterclaims.

(b) The Funding Lender shall provide a copy of the debt service schedule (the "Debt Service Schedule") which it prepares in connection with commencement of amortization of the Borrower Loan to the Fiscal Agent and the Governmental Lender.

(c) Unless there is no Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer and the Servicer shall then remit such funds to the Fiscal Agent. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Fiscal Agent.

## **Section 2.5. Additional Borrower Payments.**

(a) The Borrower shall pay the following amounts:

(i) to the Fiscal Agent, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee, and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Fiscal Agent for remittance to the Governmental Lender, the Ongoing Governmental Lender Fee and, on demand, all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred by the Governmental Lender at any time in connection with the Borrower Loan Documents, the Funding Loan Documents, or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit, or any taxes and assessments with respect to the Project, as and when the same become due;

(iii) [reserved];

(iv) all fees, charges and expenses, including agent and counsel fees incurred in connection with the purchase of the Borrower Loan and the Funding Loan on the Conversion Date, as and when the same become due;

(v) to the Funding Lender, on demand, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(vi) any Late Charge due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Fiscal Agent on behalf of the Funding Lender;

(vii) to the Fiscal Agent, all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of Fiscal Agent incurred under the

Borrower Loan Documents or the Funding Loan Documents as and when the same become due; and

(viii) to the entity entitled thereto, when due and payable, all taxes and assessments levied by public agencies on the Project.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Fiscal Agent, or the Servicer in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

(c) The Borrower shall pay to the Governmental Lender the Ongoing Governmental Lender Fee, as such term is defined in and at the times and in the amounts specified in Section 7(n) of the Regulatory Agreement.

**Section 2.6. Overdue Payments; Payments in Default.** If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Servicer, a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

**Section 2.7. Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds.** The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender in accordance with the terms of the Borrower Note; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

**Section 2.8. Grant of Security Interest; Application of Funds.** To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Fiscal Agent and

the Funding Lender, and grants to the Fiscal Agent and the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all Rents and all payments to or moneys held in the funds and accounts created and held by the Funding Lender, Fiscal Agent or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Fiscal Agent, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Fiscal Agent, the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by the Funding Lender, in the Funding Lender's sole and absolute discretion, unless otherwise specifically provided herein.

**Section 2.9. Marshalling; Payments Set Aside.** The Governmental Lender, the Fiscal Agent and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Governmental Lender, the Fiscal Agent or the Funding Lender, or the Governmental Lender, the Fiscal Agent or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender, the Fiscal Agent or the Funding Lender and any and all remedies available to the Governmental Lender, the Fiscal Agent or the Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, the Guarantor or the General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender, the Fiscal Agent and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disbursement to the date of distribution to the Governmental Lender or the Fiscal Agent in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender, the Fiscal Agent or the Funding Lender in connection with the exercise by the Governmental Lender, the Fiscal Agent or the Funding Lender of its rights under this Section.

**ARTICLE III**

**[RESERVED]**

**ARTICLE IV**

**REPRESENTATIONS AND WARRANTIES**

**Section 4.1. Borrower Representations.** To induce the Governmental Lender to execute this Borrower Loan Agreement and to induce the Funding Lender to acquire the portion of the Bonds related to the Funding Loan, the Borrower represents and warrants for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Conversion Date. Subject to Section 4.2 hereof, the representations, warranties and agreements set forth in this Section 4.1 shall survive the acquisition of the Borrower Loan, and shall remain in effect and true and correct in all material respects until the Borrower Loan and all other Borrower Payment Obligations have been repaid in full:

**Section 4.1.1. Organization; Special Purpose.** The Borrower is a limited partnership duly organized and in good standing under the laws of the State, has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper limited partnership action, has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

**Section 4.1.2. Proceedings; Enforceability.** Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

**Section 4.1.3. No Conflicts.** The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject

or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever (other than any lien created by the Borrower Loan Documents, including, but not limited to, the lien of the Security Instrument or lien securing the Subordinate Debt) upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

**Section 4.1.4. Litigation; Adverse Facts.** There is no Legal Action, nor is there a basis known to the Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of the Borrower, the General Partner and the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of the Borrower, the General Partner and the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, as applicable; or (c) in default with respect to any agreement to which the Borrower, the General Partner or the Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, the General Partner or the Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves,

if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities subject to Permitted Encumbrances.

**Section 4.1.5. Agreements; Consents; Approvals.** Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

**Section 4.1.6. Title.** The Borrower has marketable title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee (or leasehold or subleasehold, if applicable) interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of the Borrower's right, title and interest in, all personalty included in the Project (including the Leases) in which a security interest may be perfected under the UCC by filing of a financing statement with the Secretary of State, all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

**Section 4.1.7. Survey.** To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

**Section 4.1.8. No Bankruptcy Filing.** The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Conversion Date, the Borrower has the ability to pay its debts as they become due.



**Section 4.1.9. Full and Accurate Disclosure.** No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

**Section 4.1.10. No Plan Assets.** The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101.

**Section 4.1.11. Compliance.** The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Documents.

**Section 4.1.12. Contracts.** All service, maintenance or repair contracts affecting the Project have been entered into at arm's length (except for such contracts between the Borrower, any Borrower Affiliate and any Borrower Controlling Entity) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

**Section 4.1.13. Financial Information.** All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

**Section 4.1.14. Condemnation.** No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

**Section 4.1.15. Federal Reserve Regulations.** No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

**Section 4.1.16. Utilities and Public Access.** To the best of the Borrower's knowledge, the Project is served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are located in the public right-of-way abutting the Project, and all such utilities are connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

**Section 4.1.17. Not a Foreign Person.** The Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Code.

**Section 4.1.18. Separate Lots.** Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

**Section 4.1.19. Assessments.** There are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

**Section 4.1.20. Enforceability.** The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

**Section 4.1.21. Insurance.** The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, the Permanent Funding Agreement, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance

reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, the Permanent Funding Agreement, and the Security Instrument.

**Section 4.1.22. Use of Property; Licenses.** The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, which use is consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the “Licenses”) required at this time for the construction and equipping of the Project have been obtained. To the Borrower’s knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower’s knowledge, pending or threatened that would result in a change of the zoning of the Project.

**Section 4.1.23. Flood Zone.** No structure within the Subject Property lies or is located in an identifiable or designated Special Flood Hazard Area. If the Subject Property is determined to be in a Special Flood Hazard Area, the Borrower will obtain appropriate flood insurance as required under the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994 as amended or as required by the Servicer pursuant to its underwriting guidelines.

**Section 4.1.24. Physical Condition.** The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

**Section 4.1.25. Encroachments.** All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer or the Funding Lender.

**Section 4.1.26. State Law Requirements.** The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable State laws, including, but not limited to, the Act, relating to the Borrower Loan, the Funding Loan and the Project.

**Section 4.1.27. Filing and Recording Taxes.** All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid or will be paid when due if not yet due. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

**Section 4.1.28. Investment Company Act.** The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; or (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

**Section 4.1.29. Fraudulent Transfer.** The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

**Section 4.1.30. Ownership of the Borrower.** Except as set forth in the Partnership Agreement of the Borrower, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in the Borrower.

**Section 4.1.31. Environmental Matters.** To the best of the Borrower’s knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up, and will comply with covenants and requirements relating to environmental hazards as set forth in the Permanent Funding Agreement, the Agreement of Environmental Indemnification, and the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Conversion Date.

**Section 4.1.32. Name; Principal Place of Business.** Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

**Section 4.1.33. Subordinated Debt.** There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the Subordinate Debt, except any unsecured deferred developer fee not to exceed the maximum amount permitted by the Funding Lender as determined on the Conversion Date and any unsecured loans advanced by any partner of the Borrower pursuant to the Terms of the Partnership Agreement.

**Section 4.1.34. Filing of Taxes.** The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

**Section 4.1.35. General Tax.** All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein. In the event of any conflict between the terms of this Borrower Loan Agreement and the requirements of the Tax Certificate, the Tax Certificate shall control.

**Section 4.1.36. Approval of the Borrower Loan Documents and Funding Loan Documents.** By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in any manner.

**Section 4.1.37. Funding Loan Agreement.** The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

**Section 4.1.38. Americans with Disabilities Act.** The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project,

including, but not limited to, the Americans with Disabilities Act of 1990, as amended (“ADA”), to the extent required (as evidenced by an architect’s certificate to such effect).

**Section 4.1.39. Requirements of the Act, the Code and the Regulations.** The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

**Section 4.1.40. Regulatory Agreement.** The Project is, as of the Conversion Date, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

**Section 4.1.41. Intention to Hold Project.** The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it except for rights granted in the Partnership Agreement; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement, the Permanent Funding Agreement, and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

**Section 4.1.42. Concerning General Partner.**

(a) VA Building 402 LLC, the administrative general partner of the Borrower, and West LA Veterans Collective, LLC, the co-general partner of the Borrower, are each a limited liability company, organized and validly existing under the laws of the State. Housing Corporation of America, the managing general partner of the Borrower, is a nonprofit corporation, organized and validly existing under the laws of the state of Utah. Each General Partner has all requisite power and authority, rights and franchises to enter into and perform its respective obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by a General Partner for its own account and on behalf of the Borrower, as general partner of the Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) of the General Partner.

(c) The General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by the Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of each General Partner on behalf of the Borrower, and by all necessary action on behalf of each General Partner.

(e) The execution, delivery and performance by a General Partner, on behalf of the Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) the respective General Partner's organizational documents; (ii) any other Legal Requirement affecting the respective General Partner or any of its properties; or (iii) any agreement to which the respective General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to the Funding Lender pursuant to the Security Documents.

**Section 4.1.43. Government and Private Approvals.** All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that the Borrower is not required to have as of the Conversion Date, will be obtained), and will be maintained in full force and effect at all times during the construction of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of the Borrower, are required for the due execution, delivery and performance by the Borrower or the General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by the Borrower or the General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

**Section 4.1.44. Concerning Guarantor.** Any Borrower Loan Documents and any Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by Guarantor and are legally valid and binding obligations of Guarantor, enforceable against Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

**Section 4.1.45. No Material Defaults.** Except as previously disclosed to the Funding Lender and the Governmental Lender in writing, there exists no material violation of or material default by the Borrower under, and, to the best knowledge of the Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which the Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which the Borrower

or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which the Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of the Borrower, the General Partner or the Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document concerning the Project to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

**Section 4.1.46. Payment of Taxes.** Except as previously disclosed to the Funding Lender in writing: (i) all tax returns and reports of the Borrower, the General Partner and the Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon the Borrower, the General Partner and the Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) the Borrower knows of no proposed tax assessment against it or against the General Partner or the Guarantor that would be material to the condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, and neither the Borrower nor the General Partner has contracted with any Governmental Authority in connection with such taxes.

**Section 4.1.47. Rights to Project Agreements and Licenses.** The Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. The Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents, the Funding Loan Documents, and the Subordinate Loan Documents or as otherwise approved by the Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

**Section 4.1.48. Patriot Act Compliance.** The Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism, (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any



other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that the Funding Lender notified the Borrower in writing is now included in “Government Lists”, or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America that the Funding Lender notified the Borrower in writing is now included in “Government Lists”.

**Section 4.1.49. Rent Schedule.** The Borrower has prepared and delivered to the Funding Lender a prospective Unit absorption and rent collection schedule with respect to the Project, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and (ii) any and all concessions including free rent periods, and on the basis of such schedule, the Borrower believes it will collect rents with respect to the Project in amounts greater than or equal to debt service on the Borrower Loan.

**Section 4.1.50. Other Documents.** Each of the representations and warranties of the Borrower or the General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of the Governmental Lender and the Funding Lender.

**Section 4.1.51. Subordinate Loan Documents.** The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

**Section 4.1.52. Ground Lease.** The Ground Lease is in full force and effect and the Borrower has paid all rent and other amounts due and payable to the ground lessor thereunder. There exists no material violation of or material default by the Borrower under the Ground Lease, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default by any other party under the Ground Lease.

**Section 4.2. Survival of Representations and Covenants.** All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender, the Funding Lender, and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender, the Funding Lender, or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

## ARTICLE V

### AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer that:

**Section 5.1. Existence.** The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain validly existing and in good standing under the laws of the State.

**Section 5.2. Taxes and Other Charges.** The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all Taxes and Other Charges of any type or character charged to the Governmental Lender or the Funding Lender affecting the amount available to the Governmental Lender or the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including Taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy Taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and Taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such Taxes or Other Charges and to require the Governmental Lender or the Funding Lender, at the Borrower's expense, to protest and contest any such Taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such Taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

**Section 5.3. Repairs; Maintenance and Compliance; Physical Condition.** The Borrower has and shall continue to cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

**Section 5.4. Litigation.** The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which

might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

**Section 5.5. Performance of Other Agreements.** The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project, including, without limitation, the Borrower Loan Documents.

**Section 5.6. Notices.** The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two Business Days of such filing.

**Section 5.7. Cooperate in Legal Proceedings.** The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

**Section 5.8. Further Assurances.** The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1 hereof), (i) furnish to the Servicer, the Fiscal Agent and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that the Borrower's construction or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements relating to the Project, reasonably requested by the Servicer, the Fiscal Agent or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer, the Fiscal Agent and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer, the Fiscal Agent or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater liability or obligations under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's, the Fiscal Agent's or the Funding Lender's request

therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted by search firms reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender in each of the locations reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender.

**Section 5.9. Delivery of Financial Information.** After notice to the Borrower of the issuance of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer of the Provided Information, deliver copies of all financial information required under Article IX.

**Section 5.10. Environmental Matters.** So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws, (b) promptly notify the Funding Lender, the Fiscal Agent, the Governmental Lender, and the Servicer if the Borrower shall become aware that any Hazardous Materials are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument, the Permanent Funding Agreement, or the Agreement of Environmental Indemnification.

**Section 5.11. Governmental Lender's Fees, Fiscal Agent's Fees and Funding Lender's Fees.** The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee), the Fiscal Agent (including the Fiscal Agent's Fees), and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender, the Fiscal Agent, the Funding Lender or the Funding Lender to act on its respective behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents and, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any examinations, audits or litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

**Section 5.12. Estoppel Statement.** The Borrower shall furnish to the Funding Lender, the Fiscal Agent or the Servicer for the benefit of the Funding Lender or the Servicer within 10 days after request by the Funding Lender or the Servicer, with a statement, duly acknowledged and certified, setting forth, as applicable, with respect to the Borrower Note, (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the

Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Project in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

**Section 5.13. Defense of Actions.** The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which the Governmental Lender or the Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of the Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. Neither the Governmental Lender nor the Funding Lender shall have any obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender or the Governmental Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

**Section 5.14. Expenses.** The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Fiscal Agent's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of the Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided

in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit or examination costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the fraud or willful misconduct of the Governmental Lender or the gross negligence or willful misconduct of any other party. Notwithstanding the foregoing, neither the Borrower nor the Governmental Lender shall be responsible for any costs associated with securitization of the Borrower Loan or the Funding Loan.

## **Section 5.15. Indemnification.**

**Section 5.15.1. Indemnification of Governmental Lender, County and Fiscal Agent.** The Borrower releases the Governmental Lender, the County, and the Fiscal Agent and their respective staff, officers, directors, members of its governing body, agents, officials, employees, counsel, attorneys and agents, past, present and future and any person who controls the Governmental Lender or the Fiscal Agent within the meaning of the Securities Act, from, and covenants and agrees, without limiting the indemnity provided in the Regulatory Agreement, to indemnify, hold harmless and defend the Governmental Lender and the County regardless of whether the Borrower is negligent, the Fiscal Agent and their respective staff, officers, members, supervisors, directors, officials and employees, counsel, attorneys and agents, past present and future of each of them and any person who controls such party within the meaning of the Securities Act and employees and each of them (each an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") from and against, any and all losses, claims, damages, demands, liabilities and expenses (including reasonable attorney's fees and expenses), taxes (other than income taxes payable by any party as a result of any fees payable to such parties in connection with

the transaction contemplated hereby), causes of action, suits, claims, demands and judgments of any nature, joint or several, by or on behalf of any person arising out of:

(a) the transactions provided for in the Borrower Documents or the Funding Loan Agreement or otherwise in connection with the Project, the Governmental Lender Note, the Borrower Loan or the execution and delivery or amendment of any other document entered into in connection with the transactions provided for in the Funding Loan Agreement or the Borrower Documents (however in no case shall payment of the Borrower Note be a recourse obligation);

(b) the approval of the financing for the Project or the making of the Borrower Loan;

(c) the issuance and sale of the Governmental Lender Note or any certifications or representations made by any person other than the party seeking indemnification;

(d) any and all claims arising in connection with the interpretation, performance, enforcement, breach, default or amendment of the Funding Loan Agreement, the Borrower Documents or any other documents relating to the Project or the Governmental Lender Note or in connection with any federal or state tax audit or any questions or other matters arising under such documents (however in no case shall payment of the Borrower Note be a recourse obligation);

(e) the carrying out by the Borrower of any of the transactions provided for in the Funding Loan Agreement or the Borrower Documents;

(f) the Fiscal Agent's acceptance or administration of the trusts created by the Funding Loan Agreement or the exercise of its powers or duties under the Funding Loan Agreement or under this Borrower Loan Agreement, the Regulatory Agreement or any other agreements to which it is a party or otherwise in connection with the transactions provided for in the Funding Loan Agreement or the Funding Loan Documents except for claims arising from the Fiscal Agent's administration where such is a result of actions contrary to the Fiscal Agent's duties and obligations;

(g) any and all claims arising in connection with the issuance and sale of the Governmental Lender Note or any certifications or representations made by any person other than the Indemnified Party seeking indemnification, including, without limitation, any statement or information made by the Borrower with respect to the Borrower or the Project in any offering document or materials regarding the initial offering of the Governmental Lender Note (in connection with their issuance under the Funding Loan Agreement), the Project or the Borrower or the Regulatory Agreement executed by the Borrower or any other certificate executed by the Borrower which, at the time made, is misleading, untrue or incorrect in any material respect and any untrue statement or alleged untrue statement of a material fact by the Borrower relating to the Borrower or the Project contained in any offering

material relating to the initial offering of the Governmental Lender Note, as from time to time amended or supplemented with information provided by the Borrower, or arising out of or based upon the omission or alleged omission to state in such offering material a material fact relating to the Borrower or the Project required to be stated in such offering material or necessary in order to make the statements in such offering material not misleading, or failure to properly register or otherwise qualify the sale of the Governmental Lender Note or failure to comply with any licensing or other law or regulation which would affect the manner in which or to whom the Governmental Lender Note could be sold and the carrying out by the Borrower of any of the transactions contemplated by the Funding Loan Agreement or the Borrower Documents;

(h) the Borrower's failure to comply with any requirement of this Borrower Loan Agreement or the Regulatory Agreement (however in no case shall payment of the Borrower Note be a recourse obligation);

(i) any act or omission of the Borrower or any of its agents, servants, employees or licensees in connection with the Borrower Loan or the Project, including violation of any law, ordinance, court order or regulation affecting the Project or any part of it or the ownership, occupancy or use of it (however in no case shall payment of the Borrower Note be a recourse obligation);

(j) any damage or injury, actual or claimed, of whatsoever kind, cause or character, to property (including loss of use of property) or persons, occurring or allegedly occurring in, on or about the Project or arising out of any action or inaction of the Borrower, whether or not related to the Project, or resulting from or in any way connected with the acquisition and construction or management of the Project, the issuance of the Governmental Lender Note or otherwise in connection with transactions contemplated or otherwise in connection with the Project, the Governmental Lender Note or the execution or amendment of any document relating to the Project or the Governmental Lender Note;

(k) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project; and

(l) any and all claims arising in connection with the operation of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or supervision of work done in or about, or from the planning, design, acquisition, construction, repair or equipping of, the Project or any part of it, including, but not limited to, the Americans with Disabilities Act, if applicable (as evidenced by an architect's certificate to such effect).

This indemnification shall extend to and include, without limitation, all reasonable costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought with respect to such claim, except:



(i) in the case of the foregoing indemnification of the Fiscal Agent or any of its related Indemnified Parties to the extent such damages are caused by the negligence or willful misconduct of such Person; and

(ii) in the case of the foregoing indemnification of the Governmental Lender or any of its related Indemnified Parties, to the extent such damages are caused by willful misconduct of the Governmental Lender.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Borrower Loan Agreement, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense of the action or proceeding, including the employment of counsel selected by the Borrower, subject to the approval of the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion, provided that the Governmental Lender, and the Fiscal Agent, as appropriate, shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense of the action or proceeding, and the Borrower shall be obligated to pay the reasonable fees and expenses of such separate counsel if (A) the Indemnified Party, upon the advice of counsel, determines that a conflict of interest exists between the interests of the Indemnified Party and the interests of the Borrower or (B) such separate counsel is employed with the approval of the Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

The Borrower understands and agrees that the foregoing release includes all claims of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, and the Borrower has read and understands, and hereby waives the benefits of, Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

The Borrower acknowledges that it may hereafter discover facts different from or in addition to those which it now knows or believes to be true with respect to the foregoing release by the Borrower and agrees that the foregoing release shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof.

Nothing in this Section 5.15.1 shall in any way be construed to limit the Borrower’s indemnification and other payment obligations set forth in the Regulatory Agreement.

**Section 5.15.2. Indemnification of the Funding Lender.** In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of the Funding Lender pursuant hereto and

under law or equity, the Borrower agrees to indemnify, hold harmless and defend the Funding Lender, the Servicer, and each of their respective officers, directors, employees, attorneys and agents (each an “**Indemnified Party**”), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the “Liabilities”) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any of the Borrower’s obligations under Article IX);

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

(c) Any lien (other than a Permitted Lien or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder), or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) [Reserved];

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of the Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by the Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by the Borrower, the General Partner, the Guarantor or their Affiliates to the Governmental Lender, the Funding Lender, the Servicer or any other Person in connection with the Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by the Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) Any failure (or alleged failure) by the Borrower, the Funding Lender or the Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) The Project, the operation of the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof; or

(l) The use of the proceeds of the Borrower Loan and the Funding Loan,

to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15.2 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have

consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15.2 shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Nothing contained in this Section 5.15.2 shall in any way be construed to limit the indemnification rights of the Governmental Lender contained in Section 9 of the Regulatory Agreement. With respect to the Governmental Lender, the Regulatory Agreement shall control in any conflicts between this Section 5.15.2 and Section 9 of the Regulatory Agreement.

**Section 5.16. No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender.** Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

**Section 5.17. Right of Access to the Project.** The Borrower agrees that the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Construction Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation at all reasonable times during business hours on any day and upon reasonable notice, and subject to the rights of residential tenants, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

**Section 5.18. Notice of Default.** The Borrower will provide the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer as soon as possible, and in any event not later than five Business Days after the occurrence of any Potential Default or Event of Default with a statement of an Authorized Representative of the Borrower describing the details of such Potential Default or Event of Default and any curative action Borrower proposes to take.

**Section 5.19. Covenant with Governmental Lender, Fiscal Agent and Funding Lender.** The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Borrower Note and the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

**Section 5.20. [Reserved].**

**Section 5.21. Maintenance of Insurance.** The Borrower will maintain the insurance required by the Security Instrument and the Permanent Funding Agreement.

**Section 5.22. Information; Statements and Reports.** The Borrower shall furnish or cause to be furnished to the Governmental Lender and the Funding Lender:

(a) Financial Statements; Rent Rolls. All financial statements, rent rolls, leasing reports, and other financial information required to be delivered under the Security Instrument and the Permanent Funding Agreement, all at times and otherwise in compliance with the terms and conditions of the Security Instrument and the Permanent Funding Agreement.

(b) General Partner. As soon as available and in any event within 120 days after the end of each fiscal year of the General Partner, copies of the financial statements of the General Partner as of such date, prepared in substantially the form previously delivered to the Governmental Lender and the Funding Lender and in a manner consistent therewith, or in such form (which may include a form prepared in accordance with GAAP) as the Funding Lender may reasonably request;

(c) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to the Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of the Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(d) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to the Borrower or the General Partner naming the Governmental Lender, the Fiscal Agent or the Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of the Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(e) Certification of Non-Foreign Status. Promptly upon request of the Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by the Funding Lender;

(f) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(a) hereof submitted by or on behalf of the Borrower, a statement, in form and substance satisfactory to the Funding Lender and certified by an Authorized Borrower Representative, to the effect that the Borrower is in compliance with all covenants, terms and conditions applicable to the Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by the Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of the Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(g) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property and results of operations of the Borrower, the General Partner, the Guarantor or the Project, as the Funding Lender or the Governmental Lender reasonably requests from time to time.

The Borrower shall furnish to the Governmental Lender, upon its written request, any of the items described in the foregoing sections (a) through (g) above.

**Section 5.23. Additional Notices.** The Borrower will, promptly after becoming aware thereof, give notice to the Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against the Borrower, the General Partner or the Guarantor, or any Legal Action which is threatened against the Borrower, the General Partner or the Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, assets, management, ownership or condition (financial or otherwise) of the Borrower, the General Partner, the Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which the Borrower, the General Partner or the Guarantor is a party or by or to which the Borrower, the General Partner or the Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), or condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of the Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of the Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least 15% of the tenants at the Project have been received by the Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of the Borrower's or the General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by the Borrower or the General Partner; or (iii) the nature of the trade or business of the Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, the General Partner and the Equity Investor) under the Partnership Agreement.

**Section 5.24. Compliance with Other Agreements; Legal Requirements.**

(a) The Borrower shall timely perform and comply with, and shall cause the General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and the Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) The Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction of the Improvements, and will furnish the Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. The Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or very low income. The Improvements shall comply with all applicable building, zoning and other Legal Requirements, and do not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. The Funding Lender and the Governmental Lender shall at all times have the right to audit, at the Borrower's expense, the Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or very low income, and the Borrower shall supply all such information with respect thereto as the Funding Lender or the Governmental Lender, as applicable, may request and otherwise cooperate with the Funding Lender or the Governmental Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, the Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to the Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

(c) The Borrower shall comply with the Governmental Lender's Multi-Family Bond Policies and Procedures, in accordance with Exhibit A hereto, unless waived by the Governmental Lender in writing.

**Section 5.25. Maintenance of Project.** The Borrower shall maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

**Section 5.26. Fixtures.** The Borrower shall deliver to the Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which the Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

**Section 5.27. Income from Project.** The Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan

Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose.

### **Section 5.28. Leases and Occupancy Agreements.**

(a) ***Lease Approval.***

(i) The Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third-party tenants without the funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease;

(B) The Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R's and is financially capable of performing all of its obligations under the lease; and

(C) The lease reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R's.

(ii) If any Event of Default has occurred and is continuing, the Funding Lender may make a written demand on the Borrower to submit all future leases for the Funding Lender's approval prior to execution. The Borrower shall comply with any such demand by the Funding Lender.

(iii) No approval of any lease by the Funding Lender shall be for any purpose other than to protect the Funding lender's security for the borrower Loan and to preserve the Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by the Funding Lender shall result in a waiver of any default of the Borrower. In no event shall any approval by the Funding lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) ***Landlord's Obligations.*** The Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) ***Leasing and Marketing Agreements.*** Except as may be contemplated in the Management Agreement, the Borrower shall not without the approval of the Funding Lender enter into any leasing or marketing agreement and the Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

**Section 5.29. Project Agreements and Licenses.** To the extent not heretofore delivered to the Funding Lender, the Borrower will furnish to the Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications,



together with assignments thereof to the Funding Lender and consents to such assignments where required by the Funding Lender, all in form and substance acceptable to the Funding Lender. Neither the Borrower nor the General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to the Funding Lender.

**Section 5.30. Payment of Debt Payments.** In addition to its obligations under the Borrower Note, the Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of the Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform the Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to the Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

**Section 5.31. ERISA.** The Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

**Section 5.32. Patriot Act Compliance.** The Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over the Borrower and/or the Project, including those relating to money laundering and terrorism. The Funding Lender shall have the right to audit the Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over the Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that the Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then the Funding Lender may, at its option, cause the Borrower to comply therewith and any and all costs and expenses incurred by the Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

The Borrower covenants that it shall comply with all Legal Requirements and internal requirements of the Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect. Without limiting the foregoing, the Borrower shall not take any action, or permit any action to be taken, that would cause the Borrower's representations and warranties in Section 4.1.48 to become untrue or inaccurate at any time during the term of the Funding Loan. Upon any Beneficiary Party's request from time to time during the term of the Funding Loan, the Borrower shall certify in writing to such Beneficiary Party that the Borrower's representations, warranties and obligations under Section 4.1.48 remain true and correct and have not been breached, and in addition, upon request of any Beneficiary Party, the Borrower covenants to provide all information required to satisfy obligations under all Legal Requirements and internal requirements of the Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, during the term of the Funding Loan. The Borrower shall immediately notify the Funding Lender in writing of (a) the Borrower's actual knowledge that any of such representations, warranties or covenants are no longer true and have been breached, (b) the Borrower has a reasonable basis to believe that they may no longer be true and have been breached or (c) the Borrower becomes the subject of an

investigation by Governmental Authorities related to money laundering, anti-terrorism, trade embargos and economic sanctions. The Borrower shall also reimburse the Funding Lender for any expense incurred by the Funding Lender in evaluating the effect of an investigation by Governmental Authorities on the Funding Loan and the Funding Lender's interest in the collateral for the Funding Loan, in obtaining necessary license from Governmental Authorities as may be necessary for the Funding Lender to enforce its rights under the Funding Loan Documents, and in complying with all Legal Requirements and internal requirements of the Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect applicable to the Funding Lender as a result of the existence of such an event and for any penalties or fines imposed upon the Funding Lender as a result thereof.

**Section 5.33. [Reserved].**

**Section 5.34. Tax Covenants.** The Borrower further represents, warrants and covenants as follows:

(a) General. The Borrower has not taken or omitted to take and shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a "substantial user" of any facility financed with the proceeds of the Governmental Lender Note or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) Use of Proceeds. The use of the net proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) Limitation on Net Proceeds. At least 95% of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended were used to pay Qualified Project Costs that are costs of a "qualified residential rental project" (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property

that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Funding. The proceeds of the Funding Loan were expended for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, were expended to pay Costs of Funding of the Funding Loan.

(iii) Prohibited Facilities. The Borrower has not used or permitted and shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) Limitation on Land. Less than 25% of the net proceeds of the Funding Loan actually expended were used, directly or indirectly, for the acquisition of land or an interest therein, and no portion of the net proceeds of the Funding Loan were used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) [Reserved].

(vi) Accuracy of Information. The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower’s information statement pursuant to Section 149(e) of the Code were accurate and complete as of the date of origination of the Funding Loan.

(vii) Limitation of Project Expenditures. The acquisition, construction and equipping of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on August 10, 2021, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date, except for permissible “preliminary expenditures”, which include architectural, engineering surveying, soil testing, reimbursement bond issuance and similar costs incurred prior to the commencement of construction or acquisition of the Project.

(viii) Qualified Costs. The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan were used or deemed used exclusively to pay costs which are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code’s regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code and that for the greatest number of buildings the proceeds of the Funding Loan shall be

deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed 50% or more by the proceeds of the Funding Loan for the purpose of complying with Section 42(h)(4)(B) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other Borrower Affiliate or the holders or payees of the Funding Loan and the Borrower Note for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

(c) Limitation on Maturity. The average maturity of the Governmental Lender Note does not exceed 120% of the average reasonably expected economic life of the Project financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the Net Proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) No Arbitrage. The Borrower has not taken or omitted to take and shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower has not and shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note relating to the Funding Loan, has not and shall not establish any segregated reserve or similar fund for such purpose, and has not and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower has not and shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it has complied and will comply with all applicable requirements of said Section 148

and the rules and Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender at all times from and after the Conversion Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter and not later than forty-five days after the final Computation Date and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

(e) No Federal Guarantee. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower has not taken or omitted to take and shall not take or omit to take any action which would cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Representations. The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) Qualified Residential Rental Project. The Borrower hereby represents, covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remains outstanding, to the end that the interest on the Governmental Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) Information Reporting Requirements. The Borrower has complied with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) Funding Loan Not a Hedge Bond. The Borrower covenants and agrees that not more than 50% of the proceeds of the Funding Loan has been or will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more

within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expected that at least 85% of the spendable proceeds of the Funding Loan would be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Conversion Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 10.13 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) Public Approval. The Borrower covenants and agrees that the proceeds of the Funding Loan have not been and will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Governmental Lender Note.

(l) 40/60 Test Election. The Borrower and the Governmental Lender have elected to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, that it has and will continue to comply with all the provisions of the Regulatory Agreement.

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender, the Equity Investor and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful

attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Fiscal Agent and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Fiscal Agent or the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Funding Loan in an amount related to the amount of the Borrower Loan.

(n) Compliance With Tax Certificate. In furtherance of the covenants in this Section 5.34, the Borrower has executed, delivered and complied and will continue to comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Borrower Loan Agreement and made a part of this Borrower Loan Agreement as if set forth in this Borrower Loan Agreement in full. In the event of a conflict between the terms of this Borrower Loan Agreement and the Tax Certificate, the terms of the Tax Certificate shall control.

### **Section 5.35. Payment of Rebate.**

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) Delivery of Documents and Money on Computation Dates. The Borrower will deliver to the Fiscal Agent with a copy to the Funding Lender, within 55 days after each Computation Date:

(A) a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) (1) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final

Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) Correction of Underpayments. If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Fiscal Agent an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) Records. The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) Costs. The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst, a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) Modification of Requirements. If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it



shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion with respect to such action.

(b) Rebate Fund. The Fiscal Agent shall establish and hold a separate fund designated as the “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.

(c) 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, and the Fiscal Agent shall advise the Governmental Lender and the Servicer in writing of the date and amount of any payment so made.

(d) All payments to the United States of America pursuant to this Section 5.35 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 as set forth in this Section 5.35).

(e) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 5.35 and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

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

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

(h) Notwithstanding the foregoing, the computations and payments of Rebate Amounts referred to in this Section 5.35 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender.

**Section 5.36. Covenants under Funding Loan Agreement.** The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

## ARTICLE VI

### NEGATIVE COVENANTS

The Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of the Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. The Borrower covenants and agrees that it will not, directly or indirectly:

**Section 6.1. Management Agreement.** The Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

**Section 6.2. Dissolution.** Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

**Section 6.3. Change in Business or Operation of Property.** Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction of the Project).

**Section 6.4. Debt Cancellation.** Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

**Section 6.5. Assets.** Purchase or own any real property or personal property incidental thereto other than the Project.

**Section 6.6. Transfers.** Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument, the Permanent Funding Agreement, and the

Regulatory Agreement, nor transfer any material License required for the operation of the Project. Notwithstanding anything to the contrary set forth herein or in any Borrower Loan Documents or Funding Loan Documents, the consent of the Governmental Lender and/or the Funding Lender shall not be required for the transfer of limited partner interests in the borrower in accordance with the Borrower's Partnership Agreement and the Regulatory Agreement.

**Section 6.7. Debt.** Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, (iv) trade payables incurred in the ordinary course of business, (v) the deferred developer fee and (vi) unsecured loans payable solely from cash flow made by a partner of the Borrower pursuant to the Partnership Agreement.

**Section 6.8. Assignment of Rights.** Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

**Section 6.9. Principal Place of Business.** Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender, the Governmental Lender, the Fiscal Agent and the Servicer.

**Section 6.10. Partnership Agreement.** Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld), the Borrower shall not surrender, terminate, cancel, modify, change, supplement, alter or amend in any respect, or waive or release in any material respect (except as permitted by the Security Instrument), any of its rights or remedies under the Partnership Agreement; provided, however, the consent of the Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of the Borrower as defined in and permitted by the Security Instrument and the Permanent Funding Agreement. The Borrower shall promptly provide to the Funding Lender a copy of any modification to the Partnership Agreement that does not require the Funding Lender's consent.

**Section 6.11. ERISA.** Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

**Section 6.12. No Hedging Arrangements.** Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

**Section 6.13. Loans and Investments; Distributions; Related Party Payments.**

Without the prior Written Consent of the Funding Lender in each instance, the Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in the Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in the Borrower, or make any distribution, in cash or in kind, in respect of interests in the Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in the Borrower (except to the extent permitted by the Security Instrument or the Permanent Funding Agreement and subject to the limitations set forth in Section 5.27 hereof).

**Section 6.14. Amendment of Related Documents or CC&R's.** Without the prior Written Consent of the Funding Lender in each instance, except as provided herein, the Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in this Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10 hereof), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

**Section 6.15. Personal Property.** The Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than the Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in the Borrower at the time of installation, without the Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

**Section 6.16. Fiscal Year.** Without the Funding Lender's Written Consent, which shall not be unreasonably withheld, neither the Borrower nor the General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

**Section 6.17. Publicity.** Neither the Borrower nor the General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify the Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of the Funding Lender in each instance (provided that nothing herein shall prevent the Borrower or the General Partner from identifying the Funding Lender or its Affiliates as the source of such financing to the extent that the Borrower or the General Partner are required to do so by disclosure requirements applicable to publicly held companies). The Borrower and the General Partner agree that no sign shall be posted on the Project in connection with the construction of the Improvements unless such sign identifies the Funding Lender and its respective affiliates as the source of the financing provided for herein or the Funding Lender consents to not being identified on any such sign.

**Section 6.18. Subordinate Loan Documents.** Without the Funding Lender's prior Written Consent, the Borrower will not surrender, terminate, cancel, modify, change, supplement,

alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

**Section 6.19. Ground Lease.** Without the Funding Lender’s prior Written Consent, the Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Ground Lease.

## **ARTICLE VII**

### **RESERVED**

## **ARTICLE VIII**

### **DEFAULTS**

**Section 8.1. Events of Default.** Each of the following events shall constitute an “Event of Default” under this Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default or Default, as defined by the Borrower Note, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an “Event of Default” or “Default” is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Conversion Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur; which, in the case of a non-profit Borrower Controlling Entity, may be replaced within 60 days of such event with another non-profit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) [reserved];

(h) the failure by the Borrower or any ERISA Affiliate of the Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of the Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of the Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon the Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of \$50,000;

(i) a Bankruptcy Event shall occur with respect to the Borrower, any General Partner or Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within 30 days after notice thereof from the Funding Lender;

(j) all or any part of the property of the Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released within 30 days of the date thereof;

(k) subject to Section 10.15 hereof, the Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting the Borrower, any General Partner or Guarantor, or property of the Borrower, any General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by the Borrower, any General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against a Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within 30 days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against the Borrower, any General Partner or Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed within 30 days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty), provided that any such judgment, decree, fine or penalty against a Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within 30 days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against the Borrower, any General Partner or Guarantor, or against any of their respective assets, that is not paid, superseded or stayed within 30 days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against the Borrower, any General Partner or Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of the Borrower, any General Partner or Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhandled and unstayed for a period of 30 days, or in any event later than

five Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against a Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within 30 days after notice thereof from the Funding Lender;

(o) [reserved];

(p) the Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Subject Property or the Project orders or requires that construction of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of 30 days;

(q) [reserved];

(r) [reserved];

(s) [reserved];

(t) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods; or

(u) the Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Governmental Authorities or third parties necessary for the completion of the construction of the Improvements, and the operation of, and access to, the Project; or

(v) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 8.1), as and when required, which continues for a period of 30 days after written notice of such failure by the Funding Lender or the Servicer on its behalf to the Borrower (with a copy to the Governmental Lender); provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such 30 day period, and the Borrower shall have commenced to cure such failure within such 30 day period and thereafter diligently and expeditiously proceeds to cure the same, such 30 day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed 60 days. However, no



such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

## **Section 8.2. Remedies.**

**Section 8.2.1. Acceleration.** Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action (whether directly or by directing the actions of the Fiscal Agent), without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by the Funding Lender, in the Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

**Section 8.2.2. Remedies Cumulative.** Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender or the Fiscal Agent against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender or the Fiscal Agent, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until it has exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations have been paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any

other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender, the Fiscal Agent, and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor under the Borrower Loan Documents or the Funding Loan Documents shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 8.2.3. Delay.** No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender, the Governmental Lender, or the Fiscal Agent shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender and the Fiscal Agent reserve the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

**Section 8.2.4. Set Off; Waiver of Set Off.** Upon the occurrence of an Event of Default, the Funding Lender may, at any time and from time to time, without notice to the Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of the Borrower to the Funding Lender, the Governmental Lender, or the Fiscal Agent arising under or connected with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not the Funding Lender or the Fiscal Agent shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and the Borrower hereby grants to the Funding Lender, the Governmental Lender, and the Fiscal Agent as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

**Section 8.2.5. Assumption of Obligations.** In the event that the Funding Lender, the Fiscal Agent or the assignee or designee of either shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party may, at its election, succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement, and any other Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

**Section 8.2.6. Accounts Receivable.** Upon the occurrence of an Event of Default, the Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing the Borrower's accounts, accounts

receivable and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of the Funding Lender.

**Section 8.2.7. Defaults under Other Documents.** The Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

**Section 8.2.8. [Reserved].**

**Section 8.2.9. [Reserved].**

**Section 8.2.10. Right to Directly Enforce.** Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender or the Fiscal Agent, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

**Section 8.2.11. Power of Attorney.** Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, the Borrower hereby constitutes and appoints the Funding Lender, or an independent contractor selected by the Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of the Borrower's obligations under this Borrower Loan Agreement in the name of the Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

- (a) [reserved];
- (b) [reserved];
- (c) [reserved];
- (d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;
- (e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project or the Improvements, or may be necessary or desirable for the completion of the construction of the Improvements, or clearance of objections to or encumbrances on title;
- (f) [reserved];

- (g) [reserved];
- (h) to let new or additional contracts to the extent not prohibited by their existing contracts;
- (i) to employ watchmen and erect security fences to protect the Project from injury; and
- (j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

## **ARTICLE IX**

### **SPECIAL PROVISIONS**

#### **Section 9.1. Sale of Note and Secondary Market Transaction.**

**Section 9.1.1. Cooperation.** Subject to the restrictions of Section 2.6 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

- (a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking

statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents (including, without limitation, auditor consents) to include or incorporate by reference the Provided Information in an offering document or otherwise provide the Provided Information to investors and potential investors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

**Section 9.1.2. Use of Information.** The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

**Section 9.1.3. Borrower Obligations Regarding Secondary Market Disclosure Documents.** In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those

portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender, the Governmental Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

**Section 9.1.4. Borrower Indemnity Regarding Filings.** In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender, the Fiscal Agent, the Governmental Lender and the underwriter group for any securities (the “Underwriter Group”) for any Liabilities to which Funding Lender, the Fiscal Agent, the Servicer, the Governmental Lender, its officers and officials, or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Fiscal Agent, the Servicer, the Governmental Lender, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Fiscal Agent, the Servicer, the Governmental Lender or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such unrelated third parties.

**Section 9.1.5. Indemnification Procedure.** Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

**Section 9.1.6. Contribution.** In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1. Notices.** All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a "notice") shall be deemed to be given and made when delivered by hand, by recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed to the appropriate party at the addresses set forth in Section 12.1 of the Funding Loan Agreement. Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties as provided herein.

**Section 10.2. Brokers and Financial Advisors.** The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

**Section 10.3. Survival.** This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Fiscal Agent, and shall continue in full force and effect so long as all or any of the

Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer.

**Section 10.4. Preferences.** The Governmental Lender, acting solely at the direction of the Funding Lender, shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender, the Fiscal Agent or the Servicer, or the Governmental Lender, the Fiscal Agent or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

**Section 10.5. Waiver of Notice.** The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender, the Fiscal Agent or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer to the Borrower.

**Section 10.6. Offsets, Counterclaims and Defenses.** The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender, the Fiscal Agent or the Servicer with respect to a Borrower Loan Payment. Any assignee of the Funding Lender's or the Fiscal Agent's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

**Section 10.7. Publicity.** The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general



public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

**Section 10.8. Construction of Documents.** The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

**Section 10.9. No Third-Party Beneficiaries.** The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

**Section 10.10. Assignment.** The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all of the Funding Lender's or the Fiscal Agent's rights, title, obligations and interests therein may, be assigned by the Funding Lender or the Fiscal Agent, as appropriate, at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise, subject in any event to the provisions of Section 2.6 of the Funding Loan Agreement. Upon such assignment, all references to the Funding Lender or the Fiscal Agent, as appropriate in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender or the Fiscal Agent, as appropriate. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of the Funding Lender or the Fiscal Agent, as appropriate, in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by the Funding Lender or the Fiscal Agent, as appropriate, before such assignment. In connection with any proposed assignment, the Funding Lender or the Fiscal Agent, as appropriate, may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to the Funding Lender or the Fiscal Agent, as appropriate, with reference to the Borrower, the General Partner, the Guarantor or any Borrower Affiliate, or the Project, including information that the Borrower is required to deliver to the Funding Lender pursuant to this Borrower Loan Agreement. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or the Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

**Section 10.11. Governmental Lender, Funding Lender, the Fiscal Agent and Servicer Not in Control; No Partnership.** None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer being limited to the rights to exercise the remedies

referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer. Neither the Governmental Lender, the Funding Lender, the Fiscal Agent nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall in no event be liable for any Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent and the Borrower, or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, or any sharing of liabilities, losses, costs or expenses.

**Section 10.12. Release.** The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

**Section 10.13. Term of Borrower Loan Agreement.** This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11 (Governmental Lender's and Funding Lender's Fees), 5.14 (Expenses), 5.15 (Indemnity), 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 (Reimbursement of Expenses) hereof, shall survive the termination of this Borrower Loan Agreement.

**Section 10.14. Reimbursement of Expenses.** If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding

Lender, the Fiscal Agent and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.14 shall be subordinate to its obligations to make payments under the Borrower Note.

**Section 10.15. Permitted Contests.** Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, the Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of the Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to the Funding Lender's, the Fiscal Agent's or the Governmental Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to the Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless the Borrower shall have given prior Written Notice to the Governmental Lender and the Funding Lender of the Borrower's intent to so contest or object thereto, and unless (i) the Borrower has, in the Governmental Lender's and the Funding Lender's judgment, a reasonable basis for such contest, (ii) the Borrower pays when due any portion of the claim, demand, levy or assessment to which the Borrower does not object, (iii) the Borrower demonstrates to the Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) the Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to the Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to the Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) the Borrower at all times prosecutes the contest with due diligence, and (vi) the Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by the Borrower, the amount so determined to be due and owing by the Borrower. In the event that the Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by the Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and the Funding Lender may draw or realize upon any bond or other security delivered to the Funding Lender in connection with the contest by the Borrower, in order to make such payment.

**Section 10.16. Funding Lender Approval of Instruments and Parties.** All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by the Funding Lender. The Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of the Funding Lender. No such approval shall result in a waiver of any default of the Borrower. In no event shall the Funding Lender's approval be a representation of any kind with regard to the matter being approved.

**Section 10.17. Funding Lender Determination of Facts.** The Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or

nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

**Section 10.18. Calendar Months.** With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month, if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

**Section 10.19. Determinations by Governmental Lender and/or Funding Lender.** Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

**Section 10.20. Governing Law.** This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

**Section 10.21. Consent to Jurisdiction and Venue.** The Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. The Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to enforce a judgement against the Borrower or any of the Borrower's assets in any court of any other jurisdiction where the Borrower's assets are located.

**Section 10.22. Successors and Assigns.** This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

**Section 10.23. Severability.** The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

**Section 10.24. Entire Agreement; Amendment and Waiver.** This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver.

**Section 10.25. Counterparts.** This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

**Section 10.26. Captions.** The captions of the Sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

**Section 10.27. Servicer.** The Borrower hereby acknowledges and agrees that: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless the Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

**Section 10.28. Beneficiary Parties as Third Party Beneficiary.** Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

**Section 10.29. Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE BORROWER, THE FISCAL AGENT AND THE BENEFICIARY PARTIES OTHER THAN THE GOVERNMENTAL LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN SUCH PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUES TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY OTHER THAN THE GOVERNMENTAL LENDER, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

**Section 10.30. Time of the Essence.** Time is of the essence with respect to this Borrower Loan Agreement.

**Section 10.31. Reference Date.** This Borrower Loan Agreement is dated for reference purposes only as of [\_\_\_\_\_] 1, 20[\_\_\_], and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

**Section 10.32. Restatement of Construction Loan Agreement.** The parties hereto do hereby amend and restate the Construction Loan Agreement by substituting this Borrower Loan Agreement in its entirety for the Construction Loan Agreement.

## ARTICLE XI

### LIMITATIONS ON LIABILITY

**Section 11.1. Limitation on Liability.** Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Note.

**Section 11.2. Limitation on Liability of Governmental Lender.** The Governmental Lender shall not be obligated to pay the principal (or prepayment amount) of or interest on the Funding Loan, except from moneys and assets received by the Fiscal Agent or the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State, the County, the City or any political subdivision thereof, nor the faith and credit of the Governmental Lender or the County is pledged to the payment of the principal (or Prepayment Premium) or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement, the Funding Loan or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender's sole source of moneys to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement and the Borrower Note, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment amount) of and interest on the Funding Loan as the same shall become due (whether by maturity, prepayment, acceleration or otherwise), then upon notice from the Fiscal Agent or the Funding Lender, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment amount) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Fiscal Agent, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Funding Lender, the Fiscal Agent, the Governmental Lender or any such third party, as the case may be, therefor.

**THE GOVERNMENTAL LENDER NOTE IS ISSUED IN ACCORDANCE WITH THE ACT AND IS A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM THE PLEDGED REVENUES, INCOME AND RECEIPTS OF**

**THE GOVERNMENTAL LENDER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER NOR ANY OFFICIAL OR EMPLOYEE OF THE GOVERNMENTAL LENDER NOR ANY PERSON EXECUTING THE GOVERNMENTAL LENDER NOTE, SHALL BE LIABLE PERSONALLY ON THE GOVERNMENTAL LENDER NOTE OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE.**

**NONE OF THE GOVERNMENTAL LENDER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE GOVERNMENTAL LENDER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE GOVERNMENTAL LENDER NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THE GOVERNMENTAL LENDER NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.**

**Section 11.3. Waiver of Personal Liability.** No recourse for the payment of any part of the principal of, premium, if any, or interest on the Governmental Lender Note or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Governmental Lender Note shall be had against the Board of Commissioners, the Board of Supervisors or any official, officer, member, agent, attorney 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 Borrower Loan Agreement and the issuance of the Governmental Lender Note. No covenant, stipulation, obligation or agreement of the Governmental Lender contained in this Borrower Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, commissioner, officer, agent, attorney or employee of the Governmental Lender or the Board of Commissioners, or the Board of Supervisors in other than that person's official capacity. No member, commissioner, officer, agent, attorney 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 Governmental Lender Note or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future commissioner, officer, director, employee, attorney or agent of the Governmental Lender Note in his individual capacity, and neither the commissioners, officers, directors, employees, attorneys or agents of the Governmental Lender in his or her individual capacity, and neither the commissioners, officers, directors, employees, attorneys or agents of the Governmental Lender executing the Governmental Lender Note or this Borrower Loan Agreement shall be liable personally on the Governmental Lender Note or under this Borrower Loan Agreement or be

subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Borrower Loan Agreement.

**Section 11.4. Limitation on Liability of Governmental Lender's or Funding Lender's Officers, Employees, Etc.**

(a) The Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of the Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender, other than acts or omissions resulting from the gross negligence or the willful misconduct of the Funding Lender or the Governmental Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender or the Governmental Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. The Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with the Borrower in any manner whatsoever. Prior to default by the Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third -party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of the Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall



resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), directors, officers, employees or agents, past, present or future, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

**Section 11.5. Delivery of Reports, Etc.** The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Borrower Loan Agreement or caused this Borrower Loan Agreement to be duly executed and delivered by its respective authorized representative as of the date first set forth above.

**BORROWER:**

**VA BUILDING 402 LP**, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

[Signature Page to **Building 402** Borrower Loan Agreement]



**GOVERNMENTAL LENDER:**

**LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY**, as Governmental Lender

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

Approved as to form:

[\_\_\_\_\_] , County Counsel

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

[Governmental Lender Signature Page to **Building 402** Borrower Loan Agreement]

Agreed to and Acknowledged by:

**FUNDING LENDER:**

**CALIFORNIA COMMUNITY  
REINVESTMENT CORPORATION**, as Funding  
Lender

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

Name:

Title:

[Funding Lender Signature Page to *Building 402* Borrower Loan Agreement]

## EXHIBIT A

### MULTI-FAMILY BOND POLICIES AND PROCEDURES

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

##### A. Bond Security

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

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

LACDA 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. LACDA reserves the right to impose these minimum requirements on bond issues for which LACDA 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 a “Sophisticated Investor” which is an entity meeting the definition of a “Qualified Institutional Buyer” as defined in Section 144A(a) of the Securities Act of 1933, as amended, or an institutional “Accredited Investor” as described in Rule 501(a)(1), (2), (3) or (8) promulgated under the Securities Act of 1933, as amended.
3. The bondholder must provide an investor letter in a form acceptable to LACDA wherein it acknowledges having sufficient knowledge and experience to evaluate the real estate investment.
4. LACDA 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 LACDA.

7. The developer must indemnify LACDA, 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 LACDA.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

KUTAK ROCK LLP  
1650 FARNAM STREET  
OMAHA, NE 68102  
ATTENTION: MICHELLE E. PERNICEK, ESQ.

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**REGULATORY AGREEMENT  
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY,**  
as LACDA

and

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

and

**VA BUILDING 402 LP,**  
as Borrower

relating to

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments)  
2022 Series F

Dated as of [November] 1, 2022

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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 [November] 1, 2022, by and among the **LOS ANGELES COUNTY DEVELOPMENT AUTHORITY**, 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 “LACDA”), **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association in its capacity as Trustee (the “Trustee”) under the Trust Indenture dated as of [November] 1, 2022 (the “Indenture”) by and between the LACDA and the Trustee, with an office in Los Angeles, California, and **VA BUILDING 402 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 LACDA is empowered to issue bonds or notes to finance the acquisition, construction, rehabilitation and equipping of multifamily rental housing; and

WHEREAS, on August 10, 2021 (the “Inducement Date”) the Board of Commissioners of the Los Angeles County Development Authority passed a resolution (the “Inducement Resolution”) indicating the LACDA’s intent to provide for the issuance of revenue bonds or notes to finance the acquisition, construction, development and equipping of West Los Angeles VA Campus Building 402 Apartments, a multifamily residential rental housing project consisting of 120 units (including 2 manager units) located at 11301 Wilshire Boulevard, in unincorporated Los Angeles County, on the site more particularly described in Exhibit A hereto (the “Project”); and

WHEREAS, on [\_\_\_\_\_], 2022, the Board of Commissioners of the LACDA adopted a resolution (the “Resolution”) authorizing the issuance of its revenue bonds or notes to provide financing for the acquisition and construction of the Project; and

WHEREAS, the United States on behalf of the Department of Veterans Affairs owns fee simple title to the Project Site and has ground leased the Project Site to West LA Veterans Collective, LLC, a California limited liability company (the “Sublessor”) which has in turn sub-ground leased the Project Site to the Borrower pursuant to the Ground Lease (hereinafter defined); and

WHEREAS, in furtherance of the purposes of the Act and the Resolution, and as a part of the LACDA’s program of financing housing, the LACDA is issuing pursuant to the Indenture, its Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F (the “Bond”), the proceeds of which will be used to fund a loan (the “Loan”) to the Borrower to provide financing for the acquisition, construction, development and equipping of the Project; and

WHEREAS, upon satisfaction of certain conditions and upon the Conversion Date, the Indenture will be amended and restated in the form of a Funding Loan Agreement, dated as of the first day of the month in which the Conversion Date occurs (as further described herein, the “Funding Loan Agreement”) and in connection with the Funding Loan Agreement, the Funding Lender will originate a tax-exempt loan (the “Funding Loan”) and assume the debt obligation represented by the Bond, as amended and restated, in the form of a tax-exempt note executed and delivered by the LACDA (the “Note” and together with the Bond, the “Obligations”) for the benefit of the Funding Lender;

WHEREAS, in order for interest on the Obligations to be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (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 LACDA’s housing program, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the LACDA, the Trustee 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 LACDA 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 LACDA, the Trustee 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 Indenture or the Loan Agreement, as applicable. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

“*Act*” means Chapter 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 LACDA, apply to the Obligations 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.

“*Area*” means the Los Angeles Primary Metropolitan Statistical Area.

“*Authorized Borrower Representative*” means any person who, at any time and from time to time, may be designated as the Borrower’s authorized representative by written certificate furnished to the LACDA and the Trustee 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 Trustee 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 LACDA) a written certificate identifying a different person or persons to act in such capacity.

“*Bond*” means the LACDA’s Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F authorized, authenticated, and delivered pursuant to the Act and under the Indenture on the Closing Date.

“*Bond Counsel*” means (i) Kutak Rock LLP, or (ii) any other attorney at law or other 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 political subdivisions, selected by the LACDA 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 Trustee.

“*Bond Documents*” means (i) prior to the Conversion Date, the Indenture, the Loan Agreement, this Regulatory Agreement, the Tax Certificate, and any other document now or prior to the Conversion Date executed by the Borrower, the LACDA, the Trustee, or the Bondholder in connection with the Bond and (ii) following the Conversion Date, the Funding Loan Agreement, the Borrower Loan Agreement, this Regulatory Agreement, the Tax Certificate and any other document now or hereafter executed by the Borrower, the LACDA, the Fiscal Agent or the Noteholder in connection with the Note.

“*Bondholder*” or “*Holder*” means (i) prior to the Conversion Date, the parties identified as the owners of the Bond on the registration books maintained by the Trustee on behalf of the LACDA and (ii) following the Conversion Date, the Noteholder.

“*Borrower*” means VA Building 402 LP, a California limited partnership, and its successors and assigns.

“*Borrower Loan Agreement*” means the Borrower Loan Agreement entered into on the Conversion Date by and between the LACDA and the Borrower, as amended or supplemented from time to time.

“*CCRC*” means the California Community Reinvestment Corporation, a California nonprofit public benefit corporation, 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. 22-128 adopted on June 15, 2022, 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 to be filed with the LACDA 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 LACDA and the Trustee 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 LACDA.

“*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*” means the date upon which the Bond is initially funded in an amount equal to at least \$50,001.

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

“*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 delivered to the LACDA, the Trustee and CDLAC not more than 30 months after the Closing Date, in substantially the form of Exhibit J hereto or such other form required or otherwise provided by CDLAC from time to time.

“*Conversion Date*” shall have the meaning given such term in the Indenture.

“*Costs of Issuance*” shall mean the costs of issuing the Obligations as set forth in the Indenture.

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

“*Determination of Taxability*” means either (a) refusal by the Borrower to consent to any amendment or supplement hereto or to the Indenture which, in the written opinion of Bond Counsel delivered to the LACDA, the Trustee, and the Borrower, is necessary or advisable to maintain the exclusion of interest on the Obligations from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Trustee has actual knowledge, (ii) a final judgment or order of a court of original or appellate jurisdiction of which the Trustee has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Trustee has actual knowledge or (iv) the filing with the Trustee of an opinion of Bond Counsel, in each case to the effect that the interest on the Obligations (other than interest on the Obligations for any period during which such Obligations are held by a “substantial user” of any facility financed with the proceeds of the Obligations 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, following the Conversion Date, U.S. Bank Trust Company, National Association in its capacity as fiscal agent under the Funding Loan Agreement, together with its successors and assigns.

“*Funding Lender*” means, following the Conversion Date, CCRC, and any successor entity pursuant to the Funding Loan Agreement.

“*Funding Loan Agreement*” means the Funding Loan Agreement entered into as of the Conversion Date by and among the LACDA, the Funding Lender, and the Fiscal Agent relating to 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).

“*Ground Lease*” means that certain Sublease Agreement by and between the Sublessor, as principal developer or sublessor, and the Borrower, as sublessee.

“*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 LACDA to the Borrower and, with respect to recertifications, the Annual Tenant Income Recertification attached hereto as Exhibit D, the California Tax Credit Allocation Committee Tenant Income Certification Form, or such other form as may, from time to time, be provided by the LACDA to the Borrower.

“*Indenture*” means (i) prior to the Conversion Date, that certain Trust Indenture dated as of [November] 1, 2022, between the LACDA and the Trustee, and (ii) following the Conversion Date, the Funding Loan Agreement.

“*Inducement Date*” means August 10, 2021.

“*Investor Limited Partner*” means Wells Fargo Affordable Housing Corp., a North Carolina corporation, its successors and assigns.

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



“*Loan*” means (i) prior to the Conversion Date, the loan of the sale of the proceeds of the Bond by the LACDA to the Borrower pursuant to the Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project and (ii) following the Conversion Date, the loan of the sale proceeds of the Note by the LACDA to the Borrower pursuant to the Borrower Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project.

“*Loan Agreement*” means (i) prior to the Conversion Date, the Loan Agreement dated as of [November] 1, 2022, by and between the LACDA and the Borrower, as amended or supplemented from time to time, relating to the Loan of the proceeds of the Bond and (ii) following the Conversion Date, the Borrower Loan Agreement, relating to the Loan of the proceeds of the Note.

“*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 Obligations, representing the total purchase price of the Obligations, including any premium paid as part of the purchase price of the Obligations, but excluding the accrued interest, if any, on the Obligations paid by the initial purchasers of the Obligations.

“*Note*” means the LACDA’s Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F authorized, authenticated and delivered pursuant to the Act and the Funding Loan Agreement on the Conversion Date.

“*Noteholder*” means, following the Conversion Date, the party identified as the owner of the Note on the registration books maintained by the Fiscal Agent on behalf of the LACDA.

“*Obligation*” means (i) prior to the Conversion Date, the Bond, and (ii) following the Conversion Date, the Note.

“*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, in which a subleasehold estate is granted to the Borrower under the Ground Lease, having the street address of 11301 Wilshire Boulevard, 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 Obligations, 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 the proceeds of the Obligations 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 later of (a) (i) the date which is 15 years after the date on which 50% of the dwelling units in the Project are first occupied, (ii) 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 (iii) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates or (b) the date which is 55 years from the date on which 50% of the dwelling units in the Project are first occupied.

“*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.

“*Sublessor*” means West LA Veteran Collective, LLC, a California limited liability company.

“*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 LACDA 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 Obligations, that such interest is excluded from gross income for federal income tax purposes (other than interest on the Obligations for any period during which the Obligations are held by a “substantial user” of any facility financed with the proceeds of the Obligations 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.

“*Trustee*” means (i) prior to the Conversion Date, U.S. Bank Trust Company, National Association, in its capacity as trustee under the Indenture, together with its successors and assigns, and (ii) following the Conversion Date, the Fiscal Agent.

“*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 LACDA and the Trustee as follows:

- (a) The Borrower has incurred, or will incur within six months after the Closing Date, a substantial binding obligation to commence the acquisition of a subleasehold interest 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 the proceeds of the Obligations.

(b) The Borrower's reasonable expectations respecting the total cost of the acquisition, construction and equipping of the Project are accurately set forth in the Borrower Cost Certificate (the "Borrower Cost Certificate") submitted to the LACDA on the Closing Date.

(c) The Borrower has acquired the Project Site through a subleasehold estate and will, within six months following the 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 the proceeds of the Obligations 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 the proceeds of the Obligations pursuant to the Indenture 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 the proceeds of the Obligations 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 Trustee with an opinion of Bond Counsel to the effect that the Tax-exempt status of interest on the Bond 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 Bond 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 Bond 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 the proceeds of the Obligations 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 Bond to be applied in a manner contrary to the Indenture, the Loan Agreement, the Act or the Code.

(h) [Reserved].

(i) The Borrower shall, within 30 days following the Completion Date, evidence the Completion Date by providing a Construction Completion Certificate to CDLAC, the Trustee and the LACDA, 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 Trustee no later than the date 36 months from the Closing Date unless the Borrower delivers to the Trustee a certificate of the LACDA 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 Bond 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 the proceeds of the Obligations (A) spent on land by the Borrower relative to the Project Site to an amount that is less than 25% of the amount of the proceeds of the Obligations 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 the proceeds of the Obligations expended on such Qualified Project Costs are at least 97% of the amount of the proceeds of the Obligations spent for all purposes related to the Project, except that, upon receipt by the Borrower, the Trustee and the LACDA of an approving opinion of Bond Counsel, the percentage of such amounts so used may be 95%.

(k) No proceeds of the Obligations 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 constructed and 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 (which shall not include any manager 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) in the Project will be available for rental on a continuous basis to members of the general public,

and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except 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 this Section 3(e), the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the LACDA), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law, and (5) the requirements of the Ground Lease.

(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 LACDA 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 Indenture 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 LACDA, 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 the dwelling units in the Project are occupied by tenants providing an Income Certification, the Borrower shall execute and deliver to the LACDA and a copy to CDLAC and the Trustee 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, in the case of tenants residing in the Project as of the date of issuance of the Obligations (if applicable), dated no later than the day prior to the disbursement of the proceeds of the Obligations to fund acquisition and construction of the Project (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 LACDA 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 LACDA), shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the LACDA no later than the fifteenth day of each month (or such other period as specified in writing by the LACDA) 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 LACDA) 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 LACDA shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification satisfactory to the LACDA.

(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 LACDA, the Trustee, 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 LACDA and the Trustee, no later than the fifteenth day of each month (or such other period as specified in writing by the LACDA) following the receipt by the Trustee 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 LACDA) 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 LACDA 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 LACDA, submit such completed form to the Secretary of the Treasury, regardless of whether or not the LACDA 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 Trustee or the LACDA, 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.

(i) Pursuant to the CDLAC Conditions attached hereto and for the entire term of the Regulatory Agreement, the Project shall consist of 118 units plus 2 manager units of which at least 118 units shall be rented or held vacant for rental for persons or families whose income is at or below 50% of the area median income.

**Section 5. Tax-exempt Status of the Obligations.** The Borrower and the LACDA make the following representations, warranties and agreements for the benefit of the holders of the Obligations from time to time:

(a) The Borrower and the LACDA 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 Obligations 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 Obligations 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 LACDA will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the LACDA and the Trustee, with a copy to the Borrower, 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 LACDA will file or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the LACDA and the Trustee, with a copy to the Borrower, 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.

(d) The Borrower will not knowingly enter into any agreements which would result in the payment of principal or interest on the Obligations 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 Obligations 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 LACDA hereby agree to comply with each of the requirements of the Act, all provisions in the Health and Safety Code of the State of California applicable to “affordable housing units” as defined therein, 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 LACDA to file any annual report required by the Act or pursuant to California Government Code Section 8855.5 and, no later than January 31 of each calendar year, the Borrower, on behalf of the LACDA, shall provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, with a copy to the LACDA, any annual report information required by California Government Code Section 8855(k)(1) until the later of the date the Obligations are no longer outstanding or the proceeds of the Obligations have been fully spent.

(d) No portion of the Obligations shall be used to finance the acquisition, construction, equipping, refinancing or development of commercial property for lease.

(e) [Reserved].

(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 Obligations, 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 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 LACDA 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 LACDA 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 apply or 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 LACDA.** 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 LACDA, 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 LACDA such information with respect to the Project or the Obligations as the LACDA shall from time to time request. The Borrower shall provide written notice to the LACDA 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, 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 units 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 units 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 LACDA; 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 LACDA, 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 LACDA (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 LACDA, 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 LACDA to file any periodic report, or any other information concerning the Project as the LACDA may reasonably request.



(j) [Reserved].

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

(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 five 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 ending at the expiration of the Qualified Project Period. Upon termination of the rent restriction period under this Regulatory Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

(ii) Thirty-six months prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units 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 LACDA, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development. In addition, the Borrower, within 36 months of a scheduled expiration of rental restrictions, shall also provide notice of the scheduled expiration of rent restrictions to any prospective tenant at the time he or she is interviewed for eligibility.

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

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

(v) Ninety days prior to the termination of the rent restriction period under this Regulatory Agreement, the Borrower must again give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels.

Unless the Borrower meets the requirements of California Government Code Section 65863.13, pursuant to California Government Code Section 65863.11, prior to or concurrently with the 12 month notice referred to above in (iii), the Borrower must provide notice of the opportunity to offer to purchase the assisted housing development to all qualified entities on the list maintained by the California Department of Housing and Community Development as well as to those qualified entities that contact the Borrower directly. The notice shall conform to the requirements of California Government Code Section 65863.11(h) and shall be sent to the entities by registered or certified mail, return receipt requested. The Borrower shall also post a copy of the notice in a conspicuous place in the common area of the Project.

(n) The Borrower shall pay to the LACDA its initial fee on the Closing Date and thereafter pay to the LACDA its ongoing fees with respect to the issuance of the Obligations as follows. The Borrower shall pay the LACDA an initial fee immediately upon issuance of the Bond equal to \$84,387.50 (.25% of the aggregate original principal amount of the Bond issuable under the Indenture (\$33,755,000)). In addition, the Borrower shall, as compensation for the LACDA's monitoring of the provisions of this Regulatory Agreement, pay to the LACDA, annually in advance, on the Closing Date and each anniversary thereof for the period (i) from the date of issuance of the Bond through the Conversion Date, an annual amount equal to 0.125% of the original principal amount of the Bond and (ii) from and after the Conversion Date through the end of the Qualified Project Period, an annual amount of the greater of 0.125% 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 (the "Ongoing Governmental Lender Fee"). Throughout the term of this Agreement, the LACDA or the Trustee, 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 LACDA) and shall collect such payments from the Borrower and immediately remit such funds to the LACDA. In the event of any prepayment or redemption of the

Obligations in whole, prior to the end of the Qualified Project Period, the Borrower, at its election, shall either: (A) pay to the LACDA, on or before such payment, an amount equal to the present value of the remaining LACDA fees payable hereunder, as calculated by the LACDA, using a discount rate equal to the yield on the date of prepayment or redemption on the United States treasury security maturing on the date nearest the end of the Qualified Project Period, or such lesser amount as shall be necessary in the opinion of Bond Counsel to preserve the exemption of interest on the Obligations from gross income for federal income tax purposes; or (B) pay directly to the LACDA 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 Obligations are redeemed or prepaid in whole under circumstances which permit termination of this Regulatory Agreement pursuant to Section 14 hereof. The Borrower shall also pay to the LACDA, 30 days after receipt of request for payment thereof from the LACDA, all reasonable out of pocket expenses of the LACDA (not including salaries and wages of LACDA 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 Obligations. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Obligations, 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 yield of the Obligations) the LACDA's fees, unless such prepayment is made in connection with a refunding of the Obligations. Notwithstanding any prepayment of the Loan, the Borrower shall continue to pay to the LACDA all fees, losses and expenses required under the Loan Agreement and the Indenture 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 LACDA any expenses incurred by the LACDA, including, without limitation, Bond Counsel, counsel for the County and financial advisor fees, as a condition to the consideration and receipt of any consent, approval, amendment, transfer or waiver requested of the LACDA with respect to the Project, the Project Site or the Obligations, including, but not limited to, any amendment and/or restatement of the Bond Documents effective on or about the Conversion Date. The LACDA shall provide an invoice directly to the Borrower for such amounts.

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

(q) The Trustee shall report to the LACDA in writing semiannually, within 10 days of each June 30 and December 31, the principal amount of the Obligations outstanding as of such June 30 or December 31, as appropriate.

(r) [Reserved].

(s) The Borrower shall include the LACDA as an additional insured on all liability insurance policies relating to the Borrower or the Project.

(t) The Borrower shall submit to the LACDA, (i) not later than the 30<sup>th</sup> 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 LACDA, 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 LACDA 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 Obligations 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 LACDA.

(u) The Borrower acknowledges that the LACDA may appoint an administrator other than the LACDA (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 LACDA to deliver to any such administrator, in addition to or instead of the LACDA, 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 LACDA. 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 Obligations 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 LACDA, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the LACDA. 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 LACDA as the source of the financing provided for the Project, without the prior written approval of the LACDA (provided that nothing herein shall prevent the Borrower or any general partner thereof from identifying the LACDA 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 LACDA's Multi-Family Bond Policies and Procedures, including those set forth in Exhibit H.

(x) The Borrower shall comply with all applicable requirements of the Ground Lease and shall provide prompt written notice to the LACDA and the Trustee of any default thereunder.

Any of the foregoing requirements of the LACDA may be expressly waived by the LACDA in writing in the LACDA's sole discretion, but (i) no waiver by the LACDA 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 LACDA 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 Obligations for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the LACDA and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Obligations 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 Trustee and the LACDA 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 LACDA, the Trustee and the Borrower, 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 Obligations, 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 LACDA, the Trustee and the Borrower, 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 LACDA, the Trustee 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 Obligations. The LACDA 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 LACDA, whether or not required by California or federal law.

(c) The Borrower, the LACDA and, if applicable, the Trustee 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 LACDA hereby appoints the Trustee as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file or record on behalf of the LACDA, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the LACDA defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the LACDA, the Trustee shall take no action under this subsection (c) without first notifying the LACDA and without first providing the LACDA an opportunity to comply with the requirements of this Section 8. Nothing in this Section 8(c) shall be construed to allow the Trustee to execute an amendment to this Regulatory Agreement on behalf of the LACDA.

**Section 9. Indemnification.** The Borrower shall defend, indemnify and hold harmless the LACDA, the County and the Trustee 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 the 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 Obligations made or given to the LACDA or the Trustee, or any underwriters or purchasers of the Obligations, 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 Obligations or the Tax-exempt status of interest on the Obligations, (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 the 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 Indenture, the Loan Agreement, 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 Obligations, (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 redemption or prepayment, in whole or in part, of the Obligations, (h) any Determination of Taxability and any declaration of taxability of interest on the Obligations, or allegations (or regulatory inquiry)

that interest on the Obligations is taxable, for federal tax purposes, (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 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 LACDA, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the LACDA in respect of any portion of the Project, (m) the defeasance and/or redemption, in whole or in part, of the Obligations 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 Obligations or any of the documents relating to the Obligations 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 Obligations 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 Section 9 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 Trustee, the negligence of the Trustee. The Borrower also shall pay and discharge and shall indemnify and hold harmless the LACDA, the County and the respective staff, officers, members, supervisors, commissioners, directors, officials and employees, attorneys and agents and the Trustee from (i) any lien or charge upon payments by the Borrower to the LACDA and the Trustee hereunder or under the Bond 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.

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 LACDA, 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 LACDA 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 Obligations and this Regulatory Agreement or the resignation of the Trustee.

**Section 10. Consideration.** The LACDA has issued the Obligations to provide funds to finance the acquisition, construction and equipping of the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct and equip the Project. In consideration of the issuance of the Obligations by the LACDA, 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 LACDA 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 Obligations and in the exemption from federal income taxation and California personal income taxation of the interest on the Obligations. In performing their duties and obligations hereunder, the LACDA and the Trustee 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 LACDA and the Trustee 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 LACDA or the Trustee 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 Trustee 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 Trustee by the Borrower or the LACDA 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.** The Borrower hereby represents and warrants that the Project will be located entirely within the County.

**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 Bond Documents without the prior written approval of the LACDA, which approval the LACDA may withhold in its sole and absolute discretion.

At any time the Borrower desires to effect a Transfer hereunder, the Borrower shall notify the LACDA in writing (a "Transfer Notice") and shall submit to the LACDA 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 LACDA 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 LACDA unless they expressly provide for the assumption by the proposed transferee of all of the Borrower’s obligations under the Bond Documents. The Transfer Notice shall include a request that the LACDA consent to the proposed Transfer. The LACDA 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 LACDA receives the last of the items required by this Section 13. In the event the LACDA consents to a proposed Transfer, then such Transfer shall not be effective unless and until the LACDA 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 LACDA.

Except as expressly provided in this Section 13, in connection with any Transfer hereunder, the purchaser or assignee shall also: (i) deliver to the LACDA 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 LACDA an opinion of Bond Counsel addressed to the LACDA to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-exempt status of interest on the Obligations; and (iii) pay to the LACDA and the Trustee all fees and/or expenses then currently due and payable to the LACDA and the Trustee (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 LACDA’s consent is required and even if the LACDA 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 LACDA 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 LACDA 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 if the replacement general partner is an entity that is not an affiliate of the Limited Partner, such replacement general partner shall be approved by the LACDA, 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 LACDA that the Borrower intends to pursue such transfers of partnership interest at least 10 Business Days before the scheduled date of such transfers except for the removal of the general partner pursuant to clause (iv) above which notice provisions are described below; further, if the general partner is being replaced pursuant to clause (iii) above, the Borrower shall provide evidence acceptable to the LACDA 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 LACDA. 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 LACDA that they have taken such action when they take such action; (b) provide the LACDA 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 Bond Documents, if any, from and after the substitution of the general partner.

The Borrower shall use its best efforts to provide the LACDA 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 Trustee required under the Indenture or any other Bond Documents.

Notwithstanding anything contained in this Section 13 to the contrary, neither the consent of the LACDA nor the delivery of the Transfer Deliveries shall be required in the case of a foreclosure or deed in lieu of foreclosure, whereby the Bondholder 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 Bondholders, the Trustee 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 Bond Documents. However, if the Trustee or the Bondholder 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 LACDA and delivery of the Transfer Deliveries shall be required for any transfer of the Project subsequent to the Trustee's or the Bondholder'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 Bond 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 for (A) Permitted Encumbrances or Permitted Transfers or (b) a Transfer 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 Obligations; 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 Bond Documents and except to the extent that what is demolished or 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 Trustee acquires title to the Project by foreclosure or deed in lieu of foreclosure, no consent of the LACDA shall be required to such transfer under this Regulatory Agreement and no other conditions shall be required to be satisfied. However, if the Trustee 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 LACDA shall be required for any transfer of the Project subsequent to the Trustee'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 LACDA and/or Trustee 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 Obligations, discharge of the Loan and termination of the Indenture and the Loan Agreement.

Notwithstanding the foregoing, the provisions of Section 9 hereof shall, in the case of the Trustee, survive the term of this Regulatory Agreement or the replacement of the Trustee, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Trustee's tenure as Trustee under the Indenture, and shall, in the case of the LACDA, 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 LACDA or the Trustee 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 Obligations 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 LACDA) is delivered to the Trustee to the effect that the exclusion from gross income for federal income tax purposes of interest on the Obligations will not be adversely affected thereby. The provisions of the preceding sentence shall cease to apply and the requirements referred to therein shall be reinstated if, at any time during the Qualified Project Period after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any "related party" (within the meaning of Section 1.150-1(b) of the Regulations) or "related person" (defined in Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any related party as described above will obtain an ownership interest in the Project for tax purposes.

Upon the termination of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

**Section 15. Covenants to Run with the Land.** The Borrower hereby subjects its subleasehold interest in the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The LACDA 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 LACDA and, if necessary, the Trustee, 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 LACDA, the Sublessor 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 subleasehold interest in the Project is rendered less valuable thereby. The LACDA, the Sublessor 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 Obligations 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 LACDA to the Borrower, then the LACDA 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 Obligations. The Trustee hereby consents to any correction of the default by the LACDA on behalf of the Borrower. The LACDA hereby consents to any correction of a default on the part of the Borrower hereunder made by the Borrower's limited partners on behalf of the Borrower within the time periods provided in this Section. Copies of any notices sent to the Borrower hereunder shall simultaneously be sent to the Borrower's limited partners at the address set forth in Section 23.

Following the declaration of an Event of Default hereunder, the Trustee, as directed by the LACDA and subject to the provisions of the Indenture relative to the Trustee's duty to exercise remedies generally, or the LACDA 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 LACDA or the Trustee 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 LACDA 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 LACDA 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 units 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 Trustee 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 LACDA under this provision shall terminate with respect to each default upon the achievement, by the Borrower, the Trustee or the LACDA, of compliance with the requirements of Sections 2 through 7 hereof, and any subleases entered into pursuant to the LACDA's option shall be deemed to be leases from the Borrower. The LACDA 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 LACDA 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 Trustee for credit against payments due under the Loan Agreement. The Trustee shall have the right, as directed by the LACDA, in accordance with this Section 18 and the provisions of the Indenture, to exercise any or all of the rights or remedies of the LACDA hereunder, provided that prior to taking any such action the Trustee shall give the LACDA written notice of its intended action. All reasonable fees, costs and expenses of the LACDA and the Trustee incurred in taking any action pursuant to this Section 18 shall be the sole responsibility of the Borrower. All rents received by the LACDA from such subleases, less the LACDA'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 LACDA for the benefit of the Borrower. The LACDA agrees to allow the Borrower access to the LACDA'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 Trustee and the LACDA 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 Indenture has been discharged, the LACDA may act on its own behalf to declare an “Event of Default” to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Trustee.

The 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 LACDA 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 Trustee.** The Trustee shall act as specifically provided herein and in the Indenture. The Trustee is entering into this Regulatory Agreement solely in its capacity as Trustee under the Indenture, and the duties, powers, rights and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Indenture.

The LACDA shall be responsible for the monitoring and verifying of compliance by the Borrower with the terms of this Regulatory Agreement. The Trustee may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by the LACDA, or unless it has actual knowledge of noncompliance.

After the date on which no principal of the Obligations remains outstanding as provided in the Indenture, the Trustee shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Trustee in this Regulatory Agreement shall be deemed references to the LACDA.

**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 and in such other places as the LACDA or the Trustee 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 LACDA as grantee.

(b) The Borrower and the LACDA 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 Trustee's rights, duties and obligations hereunder are governed in their entirety by the terms and provisions of the Indenture.

**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, and only upon receipt by the LACDA of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-exempt status of interest on the Obligations and is not contrary to the provisions of the Act and with the written consent of the Trustee.

The LACDA, the Trustee 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 LACDA), in order that interest on the Obligations 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 LACDA and a request that such Bond Counsel render to the LACDA an opinion as to the effect of such proposed amendment upon the Tax-exempt status of interest on the Obligations.

**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 LACDA:                      Los Angeles County Development Authority  
700 West Main Street  
Alhambra, CA 91801-3312  
Attention: Vitto Banez, Bond Analyst  
Telephone: (626) 586-1668  
Facsimile: (626) 943-3815

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



If to the Borrower: VA Building 402 LP  
c/o Thomas Safran & Associates  
11811 San Vicente Boulevard  
Los Angeles, CA 90049  
Attention: President  
Telephone: (310) 820-4888  
Facsimile: (310) 207-6986

And (which shall not constitute notice to Borrower): Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, 64th Floor  
Los Angeles, CA 90071  
Attention: Nicole Deddens, Esq.  
Facsimile: (213) 559-0765

With a copy to: Wells Fargo Affordable Housing Corp.  
550 South Tryon Street  
23rd Floor, D1086-239  
Charlotte, NC 28202  
Attention: Director of Tax Credit Asset Management

With a copy to: Cannon Heyman & Weiss, LLP  
726 Exchange Street, Suite 500  
Buffalo, NY 14210  
Attention: Constance C. Giessert, Esq.  
Email: CGiessert@chwattys.com

If to Funding Lender following the Conversion Date: California Community Reinvestment Corporation  
Suite 1000  
100 West Broadway  
Glendale, CA 91210  
Attention: President

If to the Trustee: U.S. Bank Trust Company, National Association  
24th Floor  
633 West 5th Street  
Los Angeles, CA 90071  
Attention: Global Corporate Trust  
Ref: LACDA MF (VA Building 402 2022F)  
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 Trustee 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. The Trustee 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 Trustee 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 LACDA acknowledges that the Project shall be encumbered by the Bond 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 LACDA 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 Trustee 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 Trustee 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 Trustee 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 Trustee, 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 Bond 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 LACDA or the Trustee 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 LACDA, 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 LACDA shall monitor the Borrower’s compliance with the terms of the CDLAC Conditions. The Borrower will cooperate fully with the LACDA in connection with such monitoring and reporting requirements as provided herein. Compliance with the terms of the CDLAC Conditions not contained within this Regulatory Agreement, but referred to in the CDLAC Conditions is the responsibility of the Borrower to report to the LACDA.

(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 LACDA not later than January 15 of each year, and the LACDA will submit to CDLAC not later than March 1 of each year, until the Borrower has submitted to the LACDA 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 Qualified Project Period, 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 LACDA, not later than January 15 of each year, and the LACDA will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the LACDA 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 Qualified Project Period, 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 LACDA, Trustee and CDLAC, a

Construction Completion Certificate. Following the submission of the Construction Completion Certificate, the Borrower will prepare and submit to the LACDA, 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 Obligations, (iii) any change in the name of the Project or the Project manager; (iv) any default under the Indenture, the Loan Agreement or this Regulatory Agreement; or (v) termination of this Regulatory Agreement.

(e) Any of the foregoing requirements of CDLAC contained in this Section 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 LACDA has received an opinion of Bond Counsel that any such provision is not required by the Code and the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Obligations for federal income tax purposes; and (ii) any requirement of this Section 32 shall be void and of no force and effect if the LACDA and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Obligations to cease to be Tax-exempt or to the effect that compliance with such requirement would be in conflict with the 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 LACDA and/or the Trustee or to cause the LACDA or the Trustee 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 Bondholder 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: (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 LACDA 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. 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.

[Remainder of Page Intentionally Left Blank]

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

LOS ANGELES COUNTY DEVELOPMENT  
AUTHORITY, as LACDA

By: \_\_\_\_\_  
Executive Director or Designee

\_\_\_\_\_  
Print Name

[Signature Page to *VA Building 402* Regulatory Agreement]

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

By \_\_\_\_\_  
Name: Cynthia Cerda  
Title: Vice President

[Signature Page to *VA Building 402* Regulatory Agreement]



**BORROWER:**

**VA BUILDING 402 LP**, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

**TERMS ACKNOWLEDGED AND AGREED:**

**WEST LA VETERANS COLLECTIVE, LLC**, a California limited liability company, as sublessor

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

[Signature Page to *VA Building 402* Regulatory Agreement]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

State of California

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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ [SEAL]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

State of California

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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

State of California

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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

**EXHIBIT A**  
**DESCRIPTION OF PROJECT SITE**

[To be provided]

**EXHIBIT B**

**FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

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

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments)  
2022 Series F

The undersigned, being the Authorized Borrower Representative of VA Building 402 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 Los Angeles County Development Authority (together with any assigns or successors thereto, the "LACDA"), including, without limitation, the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [November] 1, 2022 (the "Regulatory Agreement"), among the Borrower, the LACDA and U.S. Bank Trust Company, National Association, as Trustee relative to the multifamily housing project located at 11301 Wilshire Boulevard, in unincorporated Los Angeles County (the "Project"), known as West Los Angeles VA Campus Building 402 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]

**VA BUILDING 402 LP**, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

[Signature Page to *VA Building 402* Certificate of Continuing Program Compliance]



**EXHIBIT C**

**FORM OF INCOME CERTIFICATION**

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

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: West Los Angeles VA Campus Building 402 Apartments, 11301 Wilshire Boulevard, in unincorporated 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 West Los Angeles VA Campus Building 402 Apartments, 11301 Wilshire Boulevard, in unincorporated 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
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(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:

<b>Occupant</b>	<b>Anticipated Annual Income</b>	<b>Source of Income or Employer</b>
(a) _____ _____	\$ _____	_____
(b) _____ _____	\$ _____	_____
(c) _____ _____	\$ _____	_____
(d) _____ _____	\$ _____	_____
(e) _____ _____	\$ _____	_____
(f) _____ _____	\$ _____	_____
<b>TOTAL</b>	\$ _____	_____

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 bond by the Los Angeles County Development Authority 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 bond by the Los Angeles County Development  
Authority.

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 LACDA]

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
ANNUAL TENANT INCOME RECERTIFICATION**

Project name: West Los Angeles VA Campus Building 402 Apartments

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

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

**TO THE RESIDENT:**

*This form is a continuation of the Los Angeles County Development Authority (the "LACDA") 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 LACDA 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**

1. Project Name Change: No \_\_\_\_\_ Yes \_\_\_\_\_  
(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)

New: \_\_\_\_\_ Original: \_\_\_\_\_

2. CDLAC Application No.: 22-465

3. Bond Issuer Change: No \_\_\_\_\_ Yes \_\_\_\_\_  
(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)

New: \_\_\_\_\_ Original: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

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

No \_\_\_\_\_ Yes \_\_\_\_\_ *If yes, please describe and explain.*

If your answer is Yes, there is no need to complete the rest of the form. Please submit the form completed through question #4.

5. Change in Borrower No \_\_\_\_\_ Yes \_\_\_\_\_  
(If Borrower has changed since the award affecting the CDLAC Resolution please note the new Borrower as well as the original Borrower.)

New: \_\_\_\_\_ Original: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

6. Change in Management Company No \_\_\_\_\_ Yes \_\_\_\_\_  
(If yes, please provide the following information for the New Management Company.) New: \_\_\_\_\_

Original: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

7. Has the Qualified Project Period commenced? No \_\_\_\_\_ Yes \_\_\_\_\_  
 (If yes, please submit the Construction Completion Certificate (one time only).)  
 Already Submitted Certification

8. Has the project been completed and placed in service? No \_\_\_\_\_ Yes \_\_\_\_\_  
 (If yes, please submit the Construction Completion Certificate (one time only).)  
 Already Submitted Certification

9. Has any of the following events occurred associated with the bond allocation: notices of defaults associated with rents and income requirements, Bond Default or a Qualified Bond Default.  
 No \_\_\_\_\_ Yes \_\_\_\_\_ If yes, please describe and explain

10.

Federally Restricted Units (Reflected in PSR)	Other Restrictions (Reflected in PSR)	Total (Reported in CDLAC Resolution)
___ at 50% AMI	___ at 50% AMI	___ at 50% AMI
___ at 60% AMI	___ at 60% AMI	___ at 60% AMI
Total _____	Total _____	Total _____

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

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units.

Bedroom Type	# of Units in PSR	# of Units in CDLAC Resolution
1 bedroom	_____	_____
2 bedroom	_____	_____
3 bedroom	_____	_____

12. If the Project has committed to and is currently providing the service amenities for a term as specified in the CDLAC Resolution, please verify the services are being provided: on a regular and ongoing basis, which are provided free of charge and all hour requirements are being met:

- \_\_\_ After-school Programs
- \_\_\_ Educational, health and wellness, or skill development classes
- \_\_\_ Health and Wellness services and programs (not group classes)
- \_\_\_ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
- \_\_\_ Bona-Fide Service Coordinator/ Social Worker

Is the service being offered on an ongoing basis and provided free of charge (childcare excluded)?  
 No \_\_\_\_\_ Yes \_\_\_\_\_

Are all hour requirements being met? No \_\_\_\_\_ Yes \_\_\_\_\_

**Attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution. Including but not limited to MOUs and/or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.**

Pursuant to Section 13 of Resolution No. 22-128 (the “Resolution”), adopted by the California Debt Limit Allocation Committee (the “Committee”) on June 15, 2022, I, \_\_\_\_\_, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bond is issued, the terms and conditions set forth in the CDLAC Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

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

\_\_\_\_\_  
Date

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

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

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



**EXHIBIT F**

[Form of]

**STATISTICAL REPORT TO LACDA**

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:

**VA BUILDING 402 LP**, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

By: \_\_\_\_\_  
Name: Carol Cromar  
Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

By: \_\_\_\_\_  
Name: Jordan Pynes  
Title: President

[Signature Page to VA Building 402 Statistical Report to LACDA]

**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, and (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**

\$33,755,000

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments)  
2022 Series F

1) Project Name: West Los Angeles VA Campus Building 402 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.: 22-465

3) Name of Bond Issuer: Los Angeles County Development Authority

4) Name of Borrower: VA Building 402 LP  
*(If Borrower has changed name since the award please note the original 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 Bond 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 Bond have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and

(c) at least 95% of the amounts disbursed from the proceeds of the Bond 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 Bond, exclusive of amounts applied to pay the costs of issuing the Bond, 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 Bond were first occupied on \_\_\_\_\_, 20\_\_\_\_ and

(b) 50% of the dwelling units in the Project financed in part from the proceeds of the Bond 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 Bond issuance date.)*

(a) Bond 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: West Los Angeles VA Campus Building 402 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.: 22-465

Name of Bond Issuer: Los Angeles County Development Authority

Name of Borrower VA Building 402 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 Bond were first occupied on \_\_\_\_\_, 20\_\_; and

(b) 50% of the dwelling units in the project financed in part from the proceeds of the captioned Bond 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) Bond was 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

New Issue – Book-Entry Only

RATING: Moody’s “Aaa/VMIG-1”  
(See “RATING” herein)

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions and assuming the accuracy of certain representations and continuing compliance with certain covenants, (a) interest on the Bonds is excludable from gross income for federal income tax purposes, except for interest on any Bond for any period during which such Bond is held by a “substantial user” of the facilities financed by the Bonds or a “related person” within the meaning of Section 147(a) of the Internal Revenue Code of 1986, and (b) interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals. For tax years beginning after December 31, 2022, interest on the Bonds may affect the federal alternative minimum tax imposed on certain corporations. Bond Counsel is also of the opinion that, under existing State of California statutes, interest on the Bonds is exempt from State of California income tax. For a more detailed description of such opinions of Bond Counsel, see “TAX MATTERS” herein.

\$33,755,000\*

LOS ANGELES COUNTY DEVELOPMENT AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F

Dated: Date of Delivery

Initial Optional Redemption Date: [\_\_\_\_] 1, 20\_\_]\* or any Business Day thereafter

Initial Interest Rate: \_\_\_\_%

Initial Mandatory Tender Date: The earlier of the Conversion Date or [\_\_\_\_] 1, 20\_\_]\*

Initial Offering Price: \_\_\_\_%

Maturity Date: [\_\_\_\_] 1, 20\_\_]\*

CUSIP: \_\_\_\_\_

The above-captioned bonds (the “Bonds”) are issuable only as fully registered bonds without coupons in the denomination of \$5,000 principal amount or any greater integral multiple of \$5,000. Interest on the Bonds will be payable on each [\_\_\_\_] 1 and [\_\_\_\_] 1, commencing [\_\_\_\_] 1, 20\_\_]\*. Purchasers of the Bonds will not receive certificates representing their interests in the Bonds. Bonds will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York. Principal of and interest on the Bonds is payable by U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), to Cede & Co., which is to remit such payments to the Direct Participants (as defined herein) for subsequent disbursement to the purchasers of the Bonds. See “BOOK-ENTRY ONLY SYSTEM” herein.

The Bonds are being issued by the Los Angeles County Development Authority (the “Issuer”), pursuant to a Trust Indenture (the “Indenture”), dated as of [November] 1, 2022, between the Issuer and the Trustee, to provide financing to VA Building 402 LP, a California limited partnership, for the acquisition, construction, equipping, and improvement of a 120-unit residential rental housing project located in unincorporated Los Angeles County, California. Under the terms of the Indenture, an amount equal to the principal amount of the Bonds is to be deposited in the Project Fund established under the Indenture and invested pursuant to the Indenture.

At all times the Bonds will be secured by Eligible Funds sufficient, with interest earnings thereon (without the need for reinvestment), to pay all of the interest on the Bonds when due and to pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. Eligible Funds will be invested in Eligible Investments under the Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

The Bonds are subject to optional redemption prior to maturity as set forth herein. See “THE BONDS – Optional Redemption” herein.

The Bonds are subject to mandatory tender for purchase on the Initial Mandatory Tender Date, subject to satisfaction of the applicable terms and conditions of remarketing set forth in the Indenture, or mandatory redemption, if the conditions to remarketing the Bonds are not met on or before the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. The Bonds may be remarketed and a new interest rate for the Bonds may be determined on the Initial Mandatory Tender Date in accordance with the terms of the Indenture, or the Bonds may be redeemed and cancelled on the Initial Mandatory Tender Date. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

THE BONDS ARE ISSUED IN ACCORDANCE WITH THE ACT AND ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE ISSUER. NEITHER THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE ISSUER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THE BONDS OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.

The Bonds are offered when, as and if issued and received by Wells Fargo Bank, National Association ( the “Underwriter”), subject to the approval as to their validity by Kutak Rock LLP, Bond Counsel, Omaha, Nebraska, and certain other conditions. CSG Advisors Incorporated, Los Angeles, California, has served as Municipal Advisor to the Issuer. Certain legal matters will be passed upon for the Underwriter by its counsel, Norris George & Ostrow PLLC, Washington, D.C., and for the Borrower by its counsel, Bocarsly Emden Cowan Esmail & Arndt LLP, Los Angeles, California. It is expected that the Bonds will be available for delivery through the facilities of The Depository Trust Company on or about

Wells Fargo Securities

\_\_\_\_\_, 2022

\* Preliminary; subject to change.

This Preliminary Official Statement and certain of the information contained herein is in a form deemed final for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under Rule 15c2-12(b)(1)). The information herein is subject to revision, completion or amendment in a final Official Statement. The Bonds may not be sold, nor may an offer to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.



No broker, dealer, salesman or other person has been authorized by the Issuer or the Underwriter to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor will there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The Issuer has not and does not assume any responsibility as to the accuracy or completeness of the information in this Official Statement, other than the information concerning the Issuer under the caption “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer.” The other information set forth herein has been obtained from sources believed to be reliable, but is not guaranteed as to accuracy and is not to be construed as a representation of such by the Underwriter or the Issuer. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder will, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein since the date hereof. The Issuer has not confirmed, and assumes no responsibility for, the accuracy, completeness, sufficiency or fairness of any statements in this Official Statement or any amendments thereof or supplements thereto, or in any reports, financial information, offering or disclosure documents or other information relating to the Borrower, the Project, or the history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the Borrower or contained otherwise in this Official Statement.

The Trustee has neither reviewed nor participated in the preparation of this Official Statement.

The Underwriter has provided the following sentence for inclusion in this Official Statement:

The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this offering document for purposes of, and as that term is defined in, SEC Rule 15c2-12.

Upon issuance, the Bonds will not be registered by the Issuer under the Securities Act of 1933, as amended, or any state securities law, and will not be listed on any stock or other securities exchange. Neither the U.S. Securities and Exchange Commission nor any other federal, state or other governmental entity or agency will have passed upon the accuracy or adequacy of this Official Statement or, other than the Issuer (to the extent described herein) approved the Bonds for sale.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT TEND TO STABILIZE OR MAINTAIN THE MARKET PRICE FOR THE BONDS ABOVE THE LEVELS THAT WOULD OTHERWISE PREVAIL. SUCH ACTIVITIES, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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**\$33,755,000\***  
**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY**  
**MULTIFAMILY HOUSING REVENUE BONDS**  
**(WEST LOS ANGELES VA CAMPUS BUILDING 402 APARTMENTS), 2022 SERIES F**

**INTRODUCTION**

This Official Statement, including the Appendices, has been prepared in connection with the issuance of the above-captioned Bonds (the “Bonds”) by the Los Angeles County Development Authority (the “Issuer”), a public body, corporate and politic, organized and existing under the laws of the State of California (the “State”). See “THE ISSUER” herein. The Issuer has authorized the issuance of the Bonds by an approving resolution relating to the issuance of the Bonds adopted by the Governing Body of the Issuer on [\_\_\_\_\_] , 2022 (the “Bond Resolution”) and the Bonds are issued pursuant to a Trust Indenture dated as of [November] 1, 2022 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Certain capitalized terms that are used in this Official Statement and not otherwise defined shall have the definitions ascribed to them in “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto.

The Bonds will be issued pursuant to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as supplemented and amended (the “Act”) and the Indenture, for the purpose of providing funds to make a loan (the “Loan”) to VA Building 402 LP, a California limited partnership (the “Borrower”), for the acquisition, construction, equipping and improvement of a 120-unit residential rental housing project located in unincorporated Los Angeles County, California (the “Project”). See “THE PROJECT AND THE BORROWER” herein. The terms of the financing are to be as set forth in the Loan Agreement, dated as of [November] 1, 2022, between the Issuer and the Borrower (the “Loan Agreement”). The obligation of the Borrower to repay the Loan pursuant to the Loan Agreement will be evidenced by a promissory note (the “Note”) executed by the Borrower in favor of the Issuer and assigned to the Trustee. See “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” for a summary of certain provisions of the Loan Agreement.

Under the terms of the Indenture, on the date of delivery an amount equal to the proceeds of the Bonds is to be deposited into the Project Fund established under the Indenture, and invested in Eligible Investments. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Investment of Special Funds” hereto.

The principal of and interest on the Bonds (the “Bond Service Charges”) are payable from the security pledged under the Indenture, including the payments on the investment of funds under the Indenture. Under the Indenture, the Trustee is to invest amounts held under the Indenture in Eligible Investments.

**At all times the Bonds will be secured by Eligible Funds sufficient, with interest earnings thereon (without the need for reinvestment), to pay all of the interest on the Bonds when due and to pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. Eligible Funds will be invested in Eligible Investments under the Indenture, as further described in “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.**

Upon the deposit of Eligible Funds into the Collateral Fund, and subject to the other provisions set forth in the Indenture, a like amount of funds will be disbursed by the Trustee from the Project Fund to or

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\* Preliminary; subject to change.

at the direction of the Borrower to pay the costs of the Project. See “THE CONSTRUCTION LOAN, COLLATERAL PAYMENTS AND DISBURSEMENT OF BOND PROCEEDS” herein.

The Borrower’s operation of the Project will be subject to the terms of a Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986, dated as of the Closing Date, between the Borrower and the Issuer (the “Tax Certificate”), and a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [November] 1, 2022, among the Borrower, the Trustee and the Issuer (the “Regulatory Agreement”), each of which contains covenants required to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes. The Regulatory Agreement will require that for the Qualified Project Period (as defined therein), at least 40% of the dwelling units in the Project (except for units reserved for a property manager) are reserved for tenants whose combined annual income does not exceed 60% of the median gross income for the area in which the Project is located, adjusted for family size and that at least 10% of the dwelling units in the Project (except for units reserved for a property manager) are reserved for tenants whose combined annual income does not exceed 50% of the median gross income for the area in which the Project is located, adjusted for family size, and the Regulatory Agreement will contain certain other restrictions on the income of the tenants as required by State law. See “THE PROJECT AND THE BORROWER – Regulatory Restrictions,” “CERTAIN BONDHOLDERS’ RISKS – Taxability,” “TAX MATTERS” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT – Occupancy Restrictions.”

The Bonds will bear interest on the outstanding principal amount thereof at the Initial Interest Rate set forth on the cover page hereof (the “Initial Interest Rate”) from the date of delivery to but not including the earlier of (i) the Conversion Date (as defined herein) or (ii) [\_\_\_\_\_] 1, 20\_\_]\* (the “Initial Mandatory Tender Date”), payable on each [\_\_\_\_\_] 1 and [\_\_\_\_\_] 1, commencing [\_\_\_\_\_] 1, 20\_\_]\* (each an “Interest Payment Date”).

The Bonds are subject to mandatory tender for purchase or mandatory redemption on the Initial Mandatory Tender Date. In the event that the Borrower has elected not to cause a remarketing of the Bonds, the conditions to remarketing set forth in the Indenture are not met, or if any portion of the Bonds cannot be remarketed, all of the Bonds will be subject to mandatory redemption on the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. A new interest rate for the Bonds may be determined on the Initial Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing. See “THE BONDS – Mandatory Redemption” herein.

Brief descriptions of the Issuer, the Bonds, the security for the Bonds, the Borrower, the Project, the Indenture, the Regulatory Agreement, the Tax Certificate and the Loan Agreement are included in this Official Statement. All references herein to the Indenture, the Loan Agreement, the Regulatory Agreement and other documents and agreements are qualified in their entirety by reference to such documents and agreements, copies of which are available for inspection at the offices of the Trustee.

The Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein under “THE BONDS – Optional Redemption.”

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\* Preliminary; subject to change.

Subject to the satisfaction of certain conditions set forth in (i) the Loan Purchase Agreement, dated as of [November] 1, 2022 (the “Loan Purchase Agreement”), by and among the Issuer, the Trustee, the Borrower, the Construction Lender (as defined herein) and California Community Reinvestment Corporation, a California nonprofit public benefit corporation, as permanent lender (“CCRC”), CCRC has agreed to facilitate the financing of the Project through the issuance of the Funding Loan on the Conversion Date, which Funding Loan shall be evidenced by a tax-exempt Governmental Lender Note. If the Conversion Conditions (as defined in the Loan Purchase Agreement) are satisfied on or before the Initial Mandatory Tender Date, Conversion will occur and, on such Conversion Date, (i) the Bonds shall be subject to Mandatory Tender in accordance with the Indenture, (ii) the Purchase Price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by CCRC at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement attached to the Loan Purchase Agreement) which shall be purchased by CCRC, (v) the Funding Loan Agreement attached to the Loan Purchase Agreement and Borrower Loan Agreement attached to the Loan Purchase Agreement shall be delivered by the respective parties and become effective and shall supersede the Indenture and the Loan Agreement, respectively, (vi) the proceeds of the CCRC Purchase Price, along with other funds of the Borrower, shall be deposited into the Construction Loan Prepayment Fund, and (vii) the Construction Loan shall be paid in full and all security related to the Construction Loan shall be released or assigned to CCRC. However, the timely payment of principal, Purchase Price upon Mandatory Tender and interest on the Bonds through the Initial Mandatory Tender Date is in no way dependent upon the satisfaction by the Borrower of the Conversion Conditions or the issuance of the Funding Loan by CCRC.

#### **THE CONSTRUCTION LOAN, COLLATERAL PAYMENTS AND DISBURSEMENT OF BOND PROCEEDS**

Simultaneously with the issuance of the Bonds, the Borrower will obtain a construction loan (the “Construction Loan”) from Wells Fargo Bank, National Association, a national banking association (the “Construction Lender”). Over time, funds provided by the Construction Lender are expected to be deposited into the Collateral Fund (collectively, the “Collateral Payments”) in an amount equal to all or a portion of such disbursement as security for the Bonds in exchange for a like amount of Bond proceeds from the Project Fund, which is to be disbursed by the Trustee to or at the direction of the Construction Lender, for purposes of paying costs of the Project, all in accordance with the Loan Agreement and the Indenture. The maximum aggregate amount of funds from the Construction Lender to be deposited as Collateral Payments over time will be \$33,755,000\*.

Bond Service Charges will be payable as they become due, in the following order: (i) from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account), (ii) from money on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (iv) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

Notwithstanding any provision of the Loan Agreement or the Indenture to the contrary, the Trustee will not disburse funds from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until (i) an amount equal to or greater than the requested disbursement amount has been deposited in the Collateral Fund in accordance with the provisions of the Indenture and (ii) the Trustee has determined that the sum of the amount then held in the Collateral Fund and the amount then on deposit in the Project

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\* Preliminary; subject to change.

Fund, less the anticipated amount of the disbursement from the Project Fund, is at least equal to the then outstanding principal amount of the Bonds. Upon receipt of a Collateral Payment, subject to the foregoing provisions, the Trustee may disburse Bond proceeds to or at the direction of the Construction Lender or the Borrower, as applicable, for use by the Borrower to pay costs of the Project, in accordance with the terms of the Loan Agreement.

The amounts on deposit in the Project Fund, the Bond Fund and the Collateral Fund will be invested on the date of delivery of the Bonds in Eligible Investments. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Investment of Special Funds.” At all times the Bonds will be secured by Eligible Investments or other Eligible Funds sufficient, together with interest earnings thereon (without the need for reinvestment), to pay all of the interest on the Bonds when due and to pay the principal of the Bonds at the earlier of any Redemption Date or any Mandatory Tender Date, as further described herein.

In connection with the Construction Loan, the Borrower will execute a promissory note (the “Construction Loan Note”). The Borrower’s repayment obligations under the Construction Loan Note will be secured by a first-lien priority deed of trust on the Project.

None of the Holders of the Bonds, the Trustee or the Issuer will have rights with respect to the Construction Loan or under any loan documents related to the Construction Loan. Furthermore, none of the Holders of the Bonds, the Trustee, or the Issuer will have (i) a lien on the real estate on which the Project is located or (ii) a lien on any funds, accords or reserves established, disbursed, maintained and/or collected by the Construction Lender in connection with the Construction Loan.

#### **THE ISSUER**

*The following information has been provided by the Issuer for use herein. While the information is believed to be reliable, none of the Trustee, the Borrower, the Underwriter, the Construction Lender nor any of their respective counsel, members, partners, officers or employees makes any representations as to the accuracy or sufficiency of such information.*

#### **General Description**

The Board of Supervisors of the County of Los Angeles (the “Board of Supervisors”) created the Housing Authority of the County of Los Angeles (“HACOLA”) by resolution on March 29, 1938, and created the Community Development Commission (the “CDC”) by ordinance on February 13, 1976. Although they were separate legal entities, after 1982, the CDC and HACOLA operated jointly with a single Executive Director, and staff performing work for both agencies. The programs and clientele of the two agencies also shared significant overlap.

On May 16, 2019, the Board of Supervisors dissolved HACOLA as a separate legal entity and the CDC, known as the Los Angeles County Development Authority (“LACDA” or “Issuer”) was vested with the powers of the community development commission and housing authority. The Issuer is part of Los Angeles County (the “County”), but it is an independent agency and not a County department.

The Board of Supervisors currently serves as the Board of Commissioners of the Issuer and sets policy for the Issuer. The Board of Commissioners receives input from the Issuer’s Housing Advisory Committee (the “Committee”), which meets monthly at various locations throughout the County. The Committee reviews and makes recommendations on matters that will be presented to the Board of Commissioners for approval, including Section 8 and public housing policies and procedures.

The Board of Supervisors has five members with four year terms. The members may be elected for up to three consecutive four year terms.

The Issuer's core pillars include affordable housing, and community and economic development. The Issuer's wide ranging programs benefit residents and business owners in the unincorporated County areas and in various incorporated cities that participate in different programs.

The Issuer participates in the County's Homeless Initiative, introduced in February 2015, to combat the homeless crisis in the region. In 2017, the initiative expanded to include 51 strategies aimed to attack the root causes of homelessness. The Issuer is involved in 27 of the 51 strategies, either as the lead or as a collaborate entity.

Almost 70% of the LACDA's funding comes from the Federal government, 63% of which comes from the U.S. Department of Housing and Urban Development ("HUD") to provide subsidized housing, housing development and preservation, community development, and economic development within Los Angeles County. In Fiscal Year 2022-2023, the Issuer had a budget of \$982.3 million and a total staff size of 687.

The Issuer has seven divisions. The executive management of the Issuer, including the directors of the seven divisions, consists of the following: Emilio Salas, Executive Director; Kathy Thomas, Chief of Operations; Tracie Mann, Chief of Programs; Elisa Vasquez, Director, Communications and Public Affairs; Linda Jenkins, Director, Community and Economic Development; Matthew Fortini, Director, Finance and Budget; Lynn Katano, Director, Housing Investment and Finance; Aletheia Broom, Director, Housing Assistance; Rebecca Yee, Director, Administrative Services; and Twima Earley, Director, Housing Operations.

### **Certain Third Party Consultants**

#### *Municipal Advisor*

The Issuer has retained CSG Advisors Incorporated as its municipal advisor (the "Municipal Advisor") in connection with the issuance of the Bonds. The Municipal Advisor has not been engaged, nor has it undertaken, to audit, authenticate or otherwise verify the information set forth in this Official Statement, or any other related information available to the Issuer, with respect to accuracy and completeness of disclosure of such information. The Municipal Advisor makes no guaranty, warranty or other representation respecting accuracy and completeness of this Official Statement or any other matter related to this Official Statement.

### **Prior Bond Issues of the Issuer**

The Issuer has previously issued and may in the future issue bonds to finance multifamily housing projects unrelated to the Project. Such bonds may have been, currently are, or may be in the future, in default. Such bonds are unrelated to the Bonds or the Project and revenues pledged to secure such bonds do not secure the Bonds and the revenues pledged to secure the Bonds do not secure the payment of any other bonds of the Issuer.

### **Limited Obligation**

THE BONDS ARE ISSUED IN ACCORDANCE WITH THE ACT AND ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY

OTHER REVENUES, INCOME OR RECEIPTS OF THE ISSUER. NEITHER THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE ISSUER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THE INDENTURE) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.

### **THE BONDS**

*The following is a summary of certain provisions of the Bonds. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Bond, a copy of which is on file with the Trustee.*

The Bonds are available in book-entry only form. See "BOOK-ENTRY ONLY SYSTEM" below. So long as Cede & Co., as nominee of The Depository Trust Company, is the registered owner of the Bonds, references herein to the Bondholders or holders or registered owner or owners of the Bonds mean Cede & Co. and not the beneficial owners of the Bonds.

#### **General**

The Bonds are issuable in the denomination of \$5,000 or any integral multiple of \$5,000 thereof. The Bonds will initially bear interest at the Initial Interest Rate from the date of delivery to but not including the Initial Mandatory Tender Date and will mature on [\_\_\_\_ 1, 20\_\_]\* (the "Maturity Date"), subject to mandatory tender for purchase or mandatory redemption on the Initial Mandatory Tender Date and redemption on any Redemption Date. Interest will be payable on each Interest Payment Date in accordance with the provisions of the Indenture. Interest will be calculated and be due on the basis of a 360-day year consisting of twelve 30-day months. Principal of and interest on the Bonds will be payable by the Trustee to Cede & Co. as nominee of DTC. See "BOOK-ENTRY ONLY SYSTEM" below.

Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee. Subject to the provisions of the Indenture, (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office designated by the Trustee, and (b) interest on any Bond shall be paid on each Interest Payment Date by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company or any successor depository with respect to Bonds in Book-Entry Form and by check with respect to Bonds not in Book-Entry Form, which the Trustee will cause to be mailed on the Interest Payment Date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

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\* Preliminary; subject to change.



## **Limited Obligations**

THE BONDS ARE ISSUED IN ACCORDANCE WITH THE ACT AND ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND NOT FROM ANY OTHER REVENUES, INCOME OR RECEIPTS OF THE ISSUER. NEITHER THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. NONE OF THE ISSUER, THE COUNTY OF LOS ANGELES, THE STATE, ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER TO THE LIMITED EXTENT SET FORTH AS DESCRIBED IN THIS PARAGRAPH) OR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS DESCRIBED IN THIS PARAGRAPH, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.

## **Optional Redemption**

The Bonds are subject to optional redemption prior to their maturity from Eligible Funds, at the written direction of an Authorized Borrower Representative (with delivery of a Cash Flow Projection, but only in the event Eligible Investments must be liquidated prior to the maturity thereof to facilitate the redemption, and written notice to the Trustee and the Issuer at least 35 days prior to the proposed redemption date (25 days if the proposed Redemption Date is the Conversion Date)) and, in the case of a redemption in part, specifying the principal amount of the Bonds to be redeemed, either in whole or in part, on any date or dates on and after the Initial Optional Redemption Date at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to such Redemption Date.

## **Mandatory Redemption**

The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, but without premium, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth in the Indenture, or (iii) the amount on deposit in the Remarketing Proceeds Account at 11:00 a.m. Eastern time on the Mandatory Tender Date is insufficient to pay the Purchase Price (as defined below) of the outstanding Unredeemed Bonds on such Mandatory Tender Date, or (iv) the Trustee has not received an executed copy of the Favorable Opinion of Bond Counsel as described in the Indenture by 11:00 a.m. Eastern time on the Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the written direction of the Authorized Borrower Representative.

## **Notice of Redemption**

Unless waived by any Holder of Bonds to be redeemed, official notice of redemption shall be given by the Trustee on behalf of the Issuer by, subject to the Indenture, mailing a copy of an official redemption notice by first-class mail, postage prepaid, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption. A second notice of redemption shall be given, as soon as practicable, by, subject to the Indenture, first-class mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 30 days following the date fixed for redemption of that Bond. So long as DTC is the registered owner of the Bonds, notice of any redemption with respect to the Bonds will be given only to DTC or its nominee. Any failure of DTC to notify the Beneficial Owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Bonds.

Failure to receive notice by mailing or other method of delivery of notice provided in the Indenture or any defect in that notice regarding any Bond shall not affect the validity of the proceedings for the redemption of any other Bond.

With respect to a mandatory redemption pursuant to the heading “Mandatory Redemption” above, the notice of Mandatory Tender provided to Holders pursuant to the Indenture shall serve as the notice of redemption required by this section and shall satisfy the requirements of this section and no further notice of redemption will be required to the Holders.

## **Conversion**

The Conversion Date will occur on the date CCRC makes the Funding Loan upon the satisfaction of the Conversion Conditions; provided, however, the Conversion Date shall occur no earlier than [\_\_\_\_\_]\*. If Conversion occurs, on the Conversion Date, (i) the Bonds shall be subject to Mandatory Tender in accordance with the provisions set forth under the heading “Mandatory Tender” below, (ii) the Purchase Price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds under the Indenture), (iii) a portion of the principal amount of the Bonds shall be cancelled such that the principal amount outstanding equals the Permanent Loan Amount (as determined by CCRC at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Lender Note (in the form attached to the Funding Loan Agreement attached to the Loan Purchase Agreement) which shall be purchased by CCRC, (v) the Funding Loan Agreement and Borrower Loan Agreement attached to the Loan Purchase Agreement shall be delivered by the respective parties and become effective and shall supersede the Indenture and the Loan Agreement, respectively, (vi) the proceeds of the CCRC Purchase Price, along with other funds of the Borrower, shall be deposited into the Construction Loan Prepayment Fund, and (vii) the Construction Loan shall be paid in full and all security related to the Construction Loan shall be released or assigned to CCRC.

## **Mandatory Tender**

(a) The Unredeemed Bonds are subject to Mandatory Tender, at the written direction of an Authorized Borrower Representative (with delivery of a Cash Flow Projection, but only in the event Eligible Investments must be liquidated prior to the maturity thereof to facilitate the payment of the Purchase Price, and written notice to the Trustee and the Issuer at least 35 days prior to the proposed Initial Mandatory Tender Date (25 days if the proposed Initial Mandatory Tender Date is the Conversion Date)),

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\* Preliminary; subject to change.

in whole and not in part on the Initial Mandatory Tender Date and shall be purchased at a price (the “Purchase Price”) equal to 100% of the principal amount of such Bonds, plus accrued interest, if any, to the Mandatory Tender Date, without premium. No later than 10:00 a.m., Eastern time, on the Mandatory Tender Date, the Holders of the Unredeemed Bonds shall deliver such Bonds to the Trustee. The Trustee shall utilize the following sources of payments to pay the Purchase Price of the Unredeemed Bonds not later than 2:30 p.m. Eastern time on the Initial Mandatory Tender Date, in the following priority: (i) amounts on deposit in the Remarketing Proceeds Account, and (ii) any other Eligible Funds available or made available for such purpose at the written direction of an Authorized Borrower Representative.

(b) Not less than 30 days before the Initial Mandatory Tender Date, the Trustee is required under the Indenture to give written notice of tender and remarketing to the Holders of Unredeemed Bonds by first class mail, postage prepaid (or, when the Bonds are in a Book-Entry System, pursuant to applicable procedures of the Depository), at their respective addresses appearing in the Register. The notice shall state the Initial Mandatory Tender Date and that:

(i) all outstanding Unredeemed Bonds are subject to mandatory tender for purchase on the Initial Mandatory Tender Date and must be tendered for purchase on the Initial Mandatory Tender Date;

(ii) all outstanding Unredeemed Bonds will be purchased on the Initial Mandatory Tender Date at a price equal to the Purchase Price;

(iii) Holders will not have the right to elect to retain their Unredeemed Bonds and any such Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Initial Mandatory Tender Date; and

(iv) the address of the office of the Trustee at which Holders should deliver their Unredeemed Bonds for purchase on the Initial Mandatory Tender Date.

If notice is given as stated in this subsection, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the remarketing or the validity of the proceedings for the remarketing of the Unredeemed Bonds.

### **No Additional Parity Bonds**

The Indenture does not permit the Issuer to issue additional indebtedness prior to or on a parity with the Bonds.

### **BOOK-ENTRY ONLY SYSTEM**

*The following information on the Book-Entry System applicable to all Bonds has been supplied by DTC and neither the Issuer, the Borrower nor the Underwriter make any representation, warranties or guarantees with respect to its accuracy or completeness.*

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC or its agent.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions and debt charges payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Issuer or Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions or debt service payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered. The Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information above in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer and the Underwriter take no responsibility for the accuracy thereof. The Issuer has no role in the purchases, transfers or sales of book entry interests. The rights of Beneficial Owners to transfer or pledge their interests, and the manner of transferring or pledging those interests, may be subject to applicable state law. Beneficial Owners may want to discuss with their legal advisers the manner of transferring or pledging their book-entry interests. The Issuer has no responsibility or liability for any aspects of the records or notices relating to, or payments made on account of, beneficial ownership, or for maintaining, supervising or reviewing any records relating to that ownership. The Issuer cannot and does not give any assurances that DTC, Direct Participants, Indirect Participants or others will distribute to the Beneficial Owners payments of debt charges on the Bonds made to DTC as the registered owner, or any redemption, if any, or other notices, or that they will do so on a timely basis, or that DTC, Direct Participants or Indirect Participants will serve or act in a manner described in this Official Statement.

***Direct Participants and Indirect Participants may impose service charges on Beneficial Owners in certain cases. Purchasers of book-entry interests should discuss that possibility with their brokers.***

#### **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

**At all times the Bonds will be secured by Eligible Funds sufficient, with interest earnings thereon (without the need for reinvestment), to pay all of the interest on the Bonds when due and to**

**pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. Eligible Funds will be invested in Eligible Investments under the Indenture.**

The Bonds will be secured under the Indenture by all right, title and interest of the Issuer in and to (i) the Revenues, including, without limitation, all Loan Payments, Collateral Payments and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan other than amounts received by the Issuer with respect to Reserved Rights, (ii) the Special Funds, including all accounts in those funds and all money deposited therein and the investment earnings on such money, (iii) the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds is invested, and (except for money in the Construction Loan Repayment Fund, the Rebate Fund or otherwise required to be rebated to the United States of America under the Internal Revenue Code of 1986, as amended (the "Code")) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security under the Indenture by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Note and (v) the Loan Agreement, except for the Reserved Rights of the Issuer (the foregoing collectively referred to as the "Trust Estate").

Amounts deposited in the Special Funds and the Rebate Fund are to be invested in Eligible Investments. See "APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Investment of Special Funds" hereto.

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#### **THE PROJECT AND THE BORROWER**

*The information under this heading has been provided solely by the Borrower and has not been independently verified by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees, or Bond Counsel. No representation whatsoever as to the accuracy, adequacy or completeness of such information is made by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees or Bond Counsel.*

## The Project

The Project, to be known or known as the West Los Angeles VA Campus Building 402 Apartments, consists of the construction and development of a 120-unit multifamily permanent supportive housing project utilizing both stick-built and modular design, consisting of 11 separate structures on a 3-acre site at the West Los Angeles VA Campus, located at 11301 Wilshire Boulevard in unincorporated Los Angeles County, California. It is anticipated that development will be completed in approximately 21\* months.

[The total gross building area is 71,361 square feet, which includes 4,335 square feet of community space. Onsite amenities include 4,580 square feet of outdoor space, designed to include large landscaped courtyards, walkways, trellises, and outdoor communal areas, including seating areas, a children’s play area, BBQs, and picnic tables. A communal building provides 1,800 square feet of indoor amenities, including a communal kitchen, dining area, TV area, pool table, computer station, fitness room, and laundry facilities. The communal building also includes management and case worker offices. Common area amenities for the Project will also include a secured entry with intercom. All 120 residential units will include energy star appliances (refrigerator, oven, range, and microwave), full bathrooms with tubs and exhaust fans, central heating and air conditioning, ceiling fans in bedrooms, window coverings, select furnishings, and internet hookups. In total, the Project will have 53 dedicated parking spaces.]

The unit mix of the Project is as follows:

<b>Number of Rental Units</b>	<b>Composition</b>	<b>Approximate Square Footage</b>
107	Studio	435
11	2 Bedroom/1 Bath	835
2	2 Bedroom Manager Units	835
<b>Total: 120</b>		

## The Borrower

The Borrower is VA Building 402 LP, a California limited partnership (the “Borrower”). The Borrower is a single-purpose entity formed to acquire, construct and develop the Project. The administrative general partner of the Borrower is VA Building 402 LLC, a California limited liability company (the “Administrative General Partner”), which owns a 0.0048% interest in the Borrower. The Administrative General Partner is owned by principals of Thomas Safran & Associates Development, Inc. and Thomas Safran & Associates, the Project sponsor and developer (collectively, “Safran”). The managing general partner of the Borrower is the Housing Corporation of America, a Utah nonprofit corporation (the “Managing General Partner”), which owns a 0.0051% interest in the Borrower. The co-general partner of the Borrower is West LA Veterans Collective, LLC, a California limited liability company (in such capacity, the “Co-General Partner”), which owns a 0.0001% interest in the Borrower. Collectively, the Administrative General Partner, the Managing General Partner and the Co-General Partner own a 0.01% interest in the Borrower. Wells Fargo Affordable Housing Corp., a North Carolina corporation (the “Investor Limited Partner”) will have a 99.99% ownership interest in the Borrower.

Principals of Safran and its affiliates have been in the business of acquiring, owning and operating apartment complexes since the 1970s, and currently own and operate 54 apartment complexes containing approximately 5,250 units of affordable housing in southern California.

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\* Preliminary; subject to change.

The prior experience of Safran, the Managing General Partner or their affiliates is no assurance that the Project will be successful.

### **Limited Assets and Obligations of Borrower and its Partners**

The Borrower and the Administrative General Partner have no substantial assets other than the Project and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project. However, Safran, the Managing General Partner, the Investor Limited Partner and their respective affiliates are engaged in and will continue to engage in the acquisition, development, ownership, and management of similar types of housing projects. They may be financially interested in, as officers, partners or otherwise, and devote substantial times to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the Loan Agreement and the Note are of a non-recourse nature and are limited to funds deposited or to be deposited under the Indenture to enable the Borrower to satisfy such obligations. Neither the Borrower nor its partners have any personal liability for payments on the Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project. Accordingly, neither the Borrower's financial statements nor those of its partners are included in this Official Statement.

### **The Property Manager**

The Project will be managed by Thomas Safran & Associates, Inc. (the "Property Manager"). The Property Manager has been involved in the management of apartment complexes since 1984. The Manager currently manages more than 54 apartment complexes comprising a total of approximately 5,250 units throughout southern California. The Property Manager currently has a staff of 20 corporate personnel and 130 site employees. The Property Manager is affiliated with the Administrative General Partner of the Borrower.

### **The General Contractor**

The general contractor for the Project will be LENA Construction LLC (the "General Contractor"). The General Contractor has over 10 years affordable housing construction management and general contracting experience.

The modular subcontractor for the Project will be Silver Creek Industries, LLC (the "Modular Subcontractor"). The Modular Subcontractor has over 15 years of modular construction experience, including residential and educational projects in Southern California.

### **The Architect**

The architect for the Project is The Architects Collective (the "Architect"). The Architect has been a licensed architect for 5 years and has been the principal architect for approximately 10 multifamily developments with an excess of 500 units throughout southern California.

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## Plan of Financing

The Borrower is acquiring, constructing, and developing the Project with funds loaned to it by the Construction Lender simultaneously with the issuance of the Bonds, as well as with funds available from the proceeds from the sale of the Bonds and certain equity contributions as shown below.

The costs of the Project and the sources of funds to pay those costs are estimated by the Borrower as follows:

<b>Sources of Funds*</b>	
Bond Proceeds <sup>1</sup>	\$33,755,000
Construction Loan	5,736,326
Interest Earnings	2,805,885
Tax Credit Equity	10,291,807
LACDA NPLH Loan	7,000,000
LACDA AHTF Loan	5,000,000
CalVet Loan	2,500,000
Deferred Reserves	689,561
Deferred Interest on Soft Loans	277,031
Deferred Developer Fee	<u>2,000,000</u>
<b>Total</b>	<b><u>\$[70,005,610]*</u></b>
<b>Uses of Funds*</b>	
Hard Costs	\$45,818,951
Hard Cost Contingency	3,236,946
FF&E	441,046
Building Fees and Insurance	503,128
Architect and Engineering	2,540,710
Third Party Reports	61,150
Financing Fees	399,126
Legal	85,000
Title	169,198
Marketing and Lease-Up	100,300
Soft Costs Contingency	2,230,827
Operating Deficit Reserve	505,834
Developer Fee	2,500,000
Construction Period Interest	3,339,808
Entitlements and Plan Check	1,144,280
Interest on Soft Loans	277,031
Cost of Issuance / Tax Credit Fees	3,837,839
Predevelopment Advances	2,500,000
Transition Reserve	<u>189,436</u>
<b>Total</b>	<b><u>\$[69,880,610]*</u></b>

<sup>1</sup> Subject to the satisfaction of certain conditions, the Bonds may be redeemed on or prior to the Initial Mandatory Tender Date with certain Eligible Funds, including the proceeds of a loan in the maximum principal amount of \$14,180,000\* (the "Funding Loan") from the California Community Reinvestment Corporation, a California nonprofit public benefit corporation, as permanent lender ("CCRC").

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\* Preliminary; subject to change.

All costs of issuing the Bonds, including the Underwriter's fee, will be paid by the Borrower.

*The Construction Loan.* The Project will utilize a construction loan in the principal amount of up to \$33,755,000\* (the "Construction Loan"). The Construction Loan will be secured by a senior deed of trust on the Project and the obligation to repay the Construction Loan will be evidenced by the Construction Loan Note from the Borrower to Wells Fargo Bank, National Association, a national banking association (the "Construction Lender"). The Construction Loan Note will have a term of 36 months, with the right to one six-month extension, and will bear interest at a variable rate equal to the SOFR Average index, plus 1.80%\* per annum with a SOFR average floor of 0.50%\*, subject to the replacement of the benchmark index and adjustment of interest rate as provided in the Construction Loan Documents, with no payments of principal during the term, and with all unpaid principal and interest due at maturity]. The Construction Loan proceeds will be disbursed from time to time by the Construction Lender to the Trustee for deposit into the Collateral Fund to allow for a corresponding amount of Bond proceeds to be disbursed to the Project.

*LACDA NPLH Loan.* Simultaneously with the issuance of the Bonds, LACDA will make a loan of No Place Like Home funds in an amount equal to approximately \$7,000,000\* to the Borrower (the "LACDA NPLH Loan"). The LACDA NPLH Loan will be secured by a subordinate deed of trust, will be repayable from surplus cash, will not bear interest, and will have a balloon maturity in 57 years.

*LACDA AHTF Loan.* Simultaneously with the issuance of the Bonds, LACDA will make a loan of county general funds in an amount equal to approximately \$5,000,000\* to the Borrower (the "LACDA AHTF Loan"). The LACDA AHTF Loan will be secured by a subordinate deed of trust, will be repayable from surplus cash, will bear interest at a rate of 3%\* per annum, and will have a balloon maturity in 57 years.

*CalVet Loan.* Simultaneously with the issuance of the Bonds, the West LA Veterans Collective, LLC, a California limited liability company, will make a loan in an amount equal to approximately \$2,500,000\* to the Borrower (the "CalVet Loan"). The CalVet Loan will be secured by a subordinate deed of trust, will be repayable from surplus cash, will not bear interest, and will mature after 55 years.

*Tax Credit Equity.* The Project is expected to qualify for federal low-income housing tax credits (the "Tax Credit") under Section 42 of the Code, and certain of the acquisition, construction, and development costs to be incurred by the Borrower in connection with the Project are expected to be qualified costs for Tax Credit purposes. Simultaneously with the issuance of the Bonds, the Borrower will sell to the Investor Limited Partner a 99.99% ownership interest in the Borrower so that the Investor Limited Partner may acquire an equivalent percentage of the Tax Credits available to the Borrower. Pursuant to the sale, the funding of the Tax Credit equity will total approximately \$10,291,807\*. The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

*Sublease.* Simultaneously with the issuance of the Bonds, the Borrower shall enter into a sublease of a master ground lease between the West LA Veterans Collective, LLC, a California limited liability

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\* Preliminary; subject to change.

company (in such capacity, the “Sublessor”) and the U.S. Department of Veterans Affairs (the “Sublease”). The term of the Sublease is approximately 99 years and shall require no annual payments.

*Deferred Developer Fee.* The Project will also utilize a deferred developer fee in the amount of \$2,000,000\* as a source of funding. The deferred fee will be repaid through surplus cash flow received from the operation of the Project.

## **The HAP Contract**

The Borrower will receive the benefit of a Section 8 Housing Assistance Payment Contract (the “HAP Contract”) covering 118 of the units in the Project. The HAP Contract will expire 20 years from the Closing Date. Funding under the HAP Contract will be subject to annual Congressional appropriations, as more particularly described below. The Section 8 project-based housing assistance payment program (the “Section 8 Program”) is authorized by Section 8 of the United States Housing Act of 1937, as amended, and in the case of Section 8 contracts, is administered by local public housing authorities. Renewals of Section 8 HAP contracts are governed by the Multifamily Assisted Housing Reform and Affordability Act, as amended (“MAHRA”). The Section 8 Program authorizes housing assistance payments to owners of qualified housing for the benefit of low-income families (defined generally as families whose incomes do not exceed 80% of the area median income (“AMI”) for the area as determined by HUD, and very low-income families (defined generally as families whose income do not exceed 50% of the AMI as determined by HUD). Section 8 housing assistance payments generally represent the difference between the “contract rent” for the unit approved by HUD and the eligible tenant’s contribution, which is generally 30% of income, as adjusted for family size and certain expenses, subject to a minimum rent contribution. The rents approved by HUD for the Project, as they may be adjusted from time to time with procedures set forth in MAHRA and the HAP Contract, are the “contract rents” for the Project. The HAP Contract will require the Borrower to maintain the Project in decent, safe and sanitary condition and to comply with other statutory and regulatory requirements governing the operation of the Project, use of project funds, and other matters. If the Borrower fails to comply with the terms of the HAP Contract, HUD or the contract administrator could seek to abate or terminate the payments under the HAP Contract, or take other sanctions. MAHRA requires that upon the request of the Borrower, HUD shall renew the HAP Contract under the Section 8 Program. However, because the HAP Contract is subject to receipt of annual appropriations by Congress, there is no assurance that the HAP Contract will be renewed or replaced upon its expiration. Funding for HAP contracts is appropriated by Congress on an annual basis, and there is no assurance that adequate funding will be appropriated each year during the term of the HAP Contract. Since payments received under the HAP Contract constitute a primary source of revenues for the Project, the expiration of the HAP Contract, or the failure of Congress to appropriate funds sufficient to fund the HAP Contract during each year of its term, would have a material adverse effect on the ability of the Project to generate revenues.

## **Regulatory Restrictions**

The Regulatory Agreement imposes certain requirements with respect to the tax-exempt status of the Bonds under the Code, which includes, among other things, that the Project be operated as a qualified residential rental project with at least 40% of completed rental units of the Project occupied by Low Income Tenants (i.e., tenants whose income does not exceed 60% of area median income (“AMI”)), adjusted for household size, and at least 10% of completed rental units of the Project occupied by Very Low Income Tenants (i.e., tenants whose income does not exceed 50% of AMI), adjusted for household size, during the Qualified Project Period (as such term is defined in the Regulatory Agreement) in accordance with Section 142(d) of the Code.

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\* Preliminary; subject to change.

In accordance with Section 51335 of the California Health and Safety Code, (i) not less than 20% of the total number of units in the Project shall be for occupancy on a priority basis by Low Income Tenants, and (ii) not less than one-half of such minimum restricted units (i.e., 10% of the total number of units in the Project) shall be for occupancy on a priority basis for Very Low Income Tenants.

Moreover, the Regulatory Agreement requires that the monthly rental payments paid by the Low Income Tenants and the Very Low Income Tenants (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 1/12th of 30% of 60% or of 50% of AMI, respectively, as published by the Department of Housing and Community Development or the U.S. Department of Housing and Urban Development. Failure to comply with these requirements could result in the loss of the federal tax exemption of the Bonds retroactive to their date of issuance. See “CERTAIN BONDHOLDERS’ RISKS – Taxability,” “TAX MATTERS,” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

Pursuant to the CDLAC Conditions attached to the Regulatory Agreement, for the entire term of the Regulatory Agreement, at least 118 of the units in the Project must be rented or held vacant for rental to persons or families whose income is at or below 50% of AMI, adjusted for family size. See “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

In addition to the rental restrictions imposed upon the Project by the Regulatory Agreement, the Project will be further encumbered by a tax credit restrictive covenant, to be executed by the Borrower in connection with the Tax Credits anticipated to be granted for the Project and in compliance with the requirements of Section 42 of the Code, and to be recorded with the Project is placed in service. Section 42 of the Code will restrict the income levels of 100% of the units in the Project (the “Tax Credit Units”), and the Tax Credit Units shall be held available for rental to persons whose adjusted family income is between 30% and 60% of AMI, adjusted for family size. The rents which may be charged for occupancy of Tax Credit Units in the Project will be restricted to not more than 30% of applicable AMI, adjusted for family size.

In connection with the LACDA NPLH Loan, the Borrower and LACDA will enter into a Regulatory Agreement with a term of 55 years from the date of the Certificate of Completion of the Project requiring at least 50 of the units in the Project (45 studio units and 5 two-bedroom units) to be rented or held vacant for rental to households containing at least one adult or older adult with a serious mental disorder or seriously emotionally disturbed child or adolescent who is homeless, chronically homeless, or at-risk of chronic homelessness and whose income is at or below 30% of AMI.

In connection with the LACDA AHTF Loan, at least 36 of the units the Project will be restricted to households earning at or below 50% of AMI.

In the event of a conflict among any of the restrictions encumbering the Project, the Project is required to comply with the most restrictive covenants.

## **CERTAIN BONDHOLDERS' RISKS**

*The purchase of the Bonds will involve a number of risks. The following is a summary, which does not purport to be comprehensive or definitive, of some of such risk factors.*

### **General**

Payment of the Bond Service Charges and the Borrower's obligations with respect to the Bond Service Charges, will be primarily secured by and payable from Bond proceeds held in the Project Fund and money deposited into the Collateral Fund and the Bond Fund, including the Negative Arbitrage Account held in the Bond Fund. Although the Borrower will execute the Note to evidence its obligation to repay the Loan, it is not expected that any revenues from the Project or other amounts, except money in the Special Funds, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that funds on deposit in the Collateral Fund and Negative Arbitrage Account of the Bond Fund will be sufficient to pay the debt service on the Bonds.

### **Limited Security; Investment of Funds**

The Bonds are special limited obligations of the Issuer payable solely from the Trust Estate, which includes certain funds pledged to and held by the Trustee pursuant to the Indenture. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein. The Bonds will not be secured by a deed of trust or other security interest in the Project.

The Bonds are offered solely on the basis of the amounts held under the Indenture and are not offered on the basis of the credit of the Borrower, the feasibility of the Project or any other security. As a consequence, limited information about the Project and no information about the financial condition or results of operations of the Borrower is included in this Official Statement. The Bonds are offered only to investors who, in making their investment decision, rely solely on the amounts held under the Indenture, and the investment earnings thereon, and not on the credit of the Borrower, the feasibility of the Project or any other security.

The principal of and interest on the Bonds are payable from and secured by certain revenues and funds pledged thereto under the Indenture. The Trustee is required to invest amounts held in the Special Funds in Eligible Investments, as defined in the Indenture. See "APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Investment of Special Funds." Failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

### **Construction Lender Collateral Payments; Disbursement of Bond Proceeds**

As described under the heading "THE CONSTRUCTION LOAN, COLLATERAL PAYMENTS AND DISBURSEMENTS OF BOND PROCEEDS" above, the deposit of Collateral Payments under the Indenture will be a condition precedent to the disbursement of Bond proceeds from the Project Fund in an amount equal to pay a portion of the costs of constructing and equipping the Project. In order to have the Construction Lender initiate the transfer of the Collateral Payments into the Collateral Fund, the Borrower will be required to satisfy any agreements relating to the Construction Loan (including requirements related to the completion of construction of the Project). Failure of the Borrower to satisfy additional future conditions could result in the Construction Lender suspending disbursements of the Construction Loan until the conditions have been satisfied which, in turn, could result in the inability of the Borrower to pay the

costs of completing the Project. However, such a failure to complete the Project would not affect the security for the bonds or cause a default on the Bonds.

### **Early Redemption of the Bonds**

Any person who purchases a Bond should consider the fact that the Bonds are subject to optional redemption prior to maturity, upon the occurrence of certain events. See “THE BONDS – Optional Redemption” and “THE BONDS – Mandatory Redemption” herein.

### **Taxability**

THE BONDS WOULD NOT BE SUBJECT TO REDEMPTION, AND THE RATE OF INTEREST ON THE BONDS WOULD NOT BE SUBJECT TO ADJUSTMENT, IF THE INTEREST ON THE BONDS WERE TO BECOME INCLUDED IN GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION. Such event could occur if the Issuer or the Borrower (or any subsequent owner of the Project) does not comply with the provisions of the Regulatory Agreement, the Tax Certificate and the Loan Agreement that are designed, if complied with, to satisfy the continuing compliance requirements of the Code in order for the interest on the Bonds to be excludable from gross income for purposes of federal income tax purposes. Under such circumstances, interest on the Bonds might become subject to federal income taxation retroactive to the date of issuance or some other subsequent date. See “TAX MATTERS” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

### **Enforceability of Remedies**

The remedies available to the Issuer, the Trustee and the owners of the Bonds upon an event of default under the Loan Agreement, the Regulatory Agreement or the Indenture are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under the Loan Agreement, the Regulatory Agreement or the Indenture may not be readily available or may be limited, and the Borrower will have no personal liability for the satisfaction of any obligation of the Borrower under such agreements or of any claim against the Borrower arising out of such agreements or the Indenture.

In addition, the Loan Agreement and the Regulatory Agreement both provide that the payment obligations of the Borrower contained in such agreements (other than certain obligations to the Issuer and the Trustee individually and not on behalf of the Holders of the Bonds) will be limited obligations payable solely from the income and assets of the Borrower, and that no partner of the Borrower will have any personal liability for the satisfaction of any payment obligation of the Borrower under such agreements or of any claim against the Borrower arising out of such agreements or the Indenture.

The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds and the documents described above is subject to limitations imposed by such things as the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or a court of equity), including judicial limitations on rights to specific performance and bankruptcy, insolvency, reorganization, moratorium or other similar laws heretofore or hereafter in effect affecting creditors’ rights, to the extent constitutionally applicable.

## **Secondary Markets and Prices**

The Underwriter will not be obligated to repurchase any of the Bonds, and no representation is made concerning the existence of any secondary market for the Bonds. No assurance can be given that any secondary market will develop following the completion of the offering of the Bonds contemplated by this Official Statement, and no assurance can be given that the Bonds can be resold at their initial offering prices for any period of time.

## **Issuer Limited Liability**

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member or program participant of the foregoing. The holders of the Bonds will have no recourse to the Issuer in the event of an event of default on the Bonds.

## **Eligible Investments**

Proceeds of the Bonds deposited into the Project Fund and Eligible Funds received by the Trustee for deposit into the Collateral Fund are required to be invested in Eligible Investments. See “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto for the definition of Eligible Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Project Fund or the Collateral Fund, and any failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

## **Rating Based on Eligible Investments**

The rating on the Bonds is based upon the Bonds being fully secured by the amounts in the Project Fund and the Collateral Fund being invested in Eligible Investments. If one or more of such investments fail to meet the rating standards for Eligible Investments after their acquisition and prior to their maturity, such a change may result in a downgrade or withdrawal of the rating on the Bonds.

## **Subordination to Construction Loan Documents**

The Indenture, the Loan Agreement, the Note, and the Regulatory Agreement contain provisions regarding subordination of such documents to the Construction Loan Documents. No assurance can be given that such provisions will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

## **Future Legislation; IRS Examination**

The Project, its operation and the treatment of interest on the Bonds are subject to various laws, rules and regulations adopted by the local, State and federal governments and their agencies. There can be no assurance that relevant local, State or federal laws, rules and regulations may not be amended or modified or interpreted in the future in a manner that could adversely affect the Bonds, the Trust Estate, the Project, or the financial condition of or ability of the Borrower to comply with its obligations under the various transaction documents.

In recent years, the Internal Revenue Service (“IRS”) has increased the frequency and scope of its examination and other enforcement activity regarding tax-exempt bonds. Currently, the primary penalty available to the IRS under the Code is a determination that interest on bonds is subject to federal income taxation. Such event could occur for a variety of reasons, including, without limitation, failure to comply with certain requirements imposed by the Code relating to investment restrictions, periodic payments of

arbitrage profits to the United States of America, the timely and proper use of Bond proceeds and the facilities financed therewith and certain other matters. See “TAX MATTERS” herein. No assurance can be given that the IRS will not examine the Issuer, the Borrower, the Project or the Bonds. If the Bonds are examined, it may have an adverse impact on their price and marketability.

### **Infectious Disease Outbreak**

Without limiting the generality of the foregoing, an outbreak of a highly contagious, epidemic or pandemic infectious disease, such as COVID-19, nationally or locally in the Project’s market area could adversely affect the Project’s operations and financial results, including the length of time necessary to complete the construction of the Project. A significant delay in construction completion may adversely impact the Borrower’s ability to comply with certain tax code requirements. See the caption “Taxability” above.

### **Legislative Response to COVID-19**

Presidential administrations, the federal Congress, the Federal Reserve, HUD, the Federal Housing Finance Agency (including Fannie Mae and Freddie Mac), USDA Rural Development, the U.S. Department of Veteran Affairs, the Centers for Disease Control, and the Consumer Financial Protection Bureau, along with the State, have enacted legislation and/or issued orders or directives (collectively, “Governmental Actions”) to alleviate the effects of COVID-19 on homeowners, renters, and landlords. Governmental Actions have included loan forbearance directives, moratoriums on foreclosures and/or evictions and the provision of rental assistance, among others. Such legislation and/or orders have been extended and/or modified, and others have expired or been enjoined. No assurances can be given that subsequent federal, state or local legislation enacted in response to the COVID-19 pandemic will not adversely affect the Borrower’s ability to collect rent and evict tenants for nonpayment of rent or otherwise operate the Project as planned.

### **Summary**

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Bonds. In order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement, including the Appendices hereto.

## **TAX MATTERS**

*Legal matters incident to the authorization, validity and issuance of the Bonds are subject to the unqualified approving opinion of Kutak Rock LLP, Bond Counsel, Omaha, Nebraska, whose opinion will be available at the time of delivery of the Bonds. It is anticipated that the approving opinion will be in substantially the form attached to this Official Statement as Appendix E.*

### **General Matters**

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, (a) interest on the Bonds is excludable from gross income for federal income tax purposes, except for interest on any Bond for any period during which such Bond is held by a “substantial user” of the facilities financed by the Bonds or a “related person” within the meaning of Section 147(a) of the Code, and (b) interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals. The opinion described above assumes the accuracy of certain representations and compliance by the Issuer and the Borrower with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Bonds. Failure to comply



with such requirements could cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The Issuer and the Borrower have covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds. For tax years beginning after December 31, 2022, interest on the Bonds may affect the federal alternative minimum tax imposed on certain corporations.

Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds. The accrual or receipt of interest on the Bonds may otherwise affect the federal income tax liability of the owners of the Bonds. The extent of these other tax consequences will depend on such owners' particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Bonds, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States of America), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers entitled to claim the earned income credit, taxpayers entitled to claim the refundable credit in Section 36B of the Code for coverage under a qualified health plan or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds.

Bond Counsel is also of the opinion that, under existing State of California statutes, interest on the Bonds is exempt from California income tax. Bond Counsel has expressed no opinion regarding other tax consequences arising with respect to the Bonds under the laws of the State of California or any other state or jurisdiction.

A copy of the form of opinion of Bond Counsel is attached hereto as Appendix E.

### **Backup Withholding**

As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on tax-exempt obligations such as the Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments to any owner of the Bonds that fails to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the Bonds from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

### **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to under this heading "TAX MATTERS" or adversely affect the market value of the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Bonds or the market value thereof would be impacted thereby. Purchasers of the Bonds should consult their tax advisors regarding any pending or proposed legislation, regulatory initiatives or litigation. The opinions expressed by Bond Counsel are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Bonds, and Bond Counsel has expressed no opinion

as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

**PROSPECTIVE PURCHASERS OF THE BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE BONDS AS TO THE IMPACT OF THE CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE BONDS.**

#### UNDERWRITING

Wells Fargo Bank, National Association (the “Underwriter”) is offering the Bonds at the price set forth on the cover hereof. The initial offering price may be changed from time to time and concessions from the offering price may be allowed to dealers, banks and others. The Underwriter has agreed to purchase the Bonds at a price equal to the principal amount thereof[, and to advance \$\_\_\_\_\_ (the “Underwriter’s Advance”) for deposit into the Negative Arbitrage Account of the Bond Fund]. For its services as such, the Underwriter is to be paid a fee equal to \$\_\_\_\_\_ plus \$\_\_\_\_\_ for certain fees and expenses (not including the fees and expenses of its counsel)[, and will be reimbursed by the Borrower in an amount equal to the Underwriter’s Advance]. From its fees, the Underwriter will pay certain of its expenses relating to the offering.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

Wells Fargo Corporate & Investment Banking (which may be referred to elsewhere as “CIB,” “Wells Fargo Securities” or “WFS”) is the trade name used for the corporate banking, capital markets and investment banking services of Wells Fargo & Company and its subsidiaries, including Wells Fargo Bank, National Association (“WFBNA”), a member of the National Futures Association, which conducts its municipal securities sales, trading and underwriting operations through the Wells Fargo Bank, N.A. Municipal Finance Group, a separately identifiable department of WFBNA, registered with the U.S. Securities and Exchange Commission as a municipal securities dealer pursuant to Section 15B(a) of the Securities Exchange Act of 1934.

WFBNA, acting through its Municipal Finance Group, the sole underwriter of the Bonds, has entered into an agreement (the “WFA Distribution Agreement”) with its affiliate, Wells Fargo Clearing Services, LLC (which uses the trade name “Wells Fargo Advisors”) (“WFA”), for the distribution of certain municipal securities offerings, including the Bonds. Pursuant to the WFA Distribution Agreement, WFBNA will share a portion of its underwriting or remarketing agent compensation, as applicable, with respect to the Bonds with WFA. WFBNA has also entered into an agreement (the “WFSLLC Distribution Agreement”) with its affiliate Wells Fargo Securities, LLC (“WFSLLC”), for the distribution of municipal securities offerings, including the Bonds. Pursuant to the WFSLLC Distribution Agreement, WFBNA pays a portion of WFSLLC’s expenses based on its municipal securities transactions. WFBNA, WFSLLC, and WFA are each wholly-owned subsidiaries of Wells Fargo & Company.

Wells Fargo Bank, National Association is serving as Underwriter, Construction Lender, and Investor Limited Partner for the Bonds and will be compensated separately for serving in each capacity.

In addition to serving as Underwriter, Wells Fargo Bank, National Association has been designated to serve as Remarketing Agent and will receive a fee for their remarketing services in connection with the remarketing of the Bonds, if any, on the Initial Mandatory Tender Date.

## **RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned to the Bonds the rating set forth on the cover page hereof. The rating reflects only the view of Moody's at the time the rating was issued and an explanation of the significance of such rating may be obtained from Moody's. The rating is not a recommendation to buy, sell or hold the Bonds. There is no assurance that any such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such rating can be expected to have an adverse effect on the market price of the Bonds. See "CERTAIN BONDHOLDERS' RISKS – Rating Based on Eligible Investments" herein.

The Issuer has not assumed any responsibility to notify the Holders of any proposed change in, suspension or withdrawal of such rating subsequent to the date of this Official Statement, and the Borrower has such responsibility only in connection with the reporting of events as provided in the Continuing Disclosure Agreement. Neither of them has any responsibility to contest any such revision, suspension or withdrawal.

## **CERTAIN LEGAL MATTERS**

Certain legal matters relating to the authorization and validity of the Bonds will be subject to the approving opinion of Kutak Rock LLP, Bond Counsel, Omaha, Nebraska, as to the tax-exempt status of the Bonds, which will be furnished at the expense of the Borrower. See "APPENDIX E –FORM OF OPINION OF BOND COUNSEL" hereto. Certain legal matters will be passed upon for the Underwriter by its counsel, Norris George & Ostrow PLLC, Washington, D.C., and for the Borrower by its counsel, Bocarsly Emden Cowan Esmail & Arndt LLP, Los Angeles, California. Compensation for certain of such counsel is contingent upon the issuance of the Bonds.

Kutak Rock LLP in its capacity as Bond Counsel will opine on the date of issuance of the Bonds with regard to the excludability of interest on the Bonds from gross income for federal tax purposes. See "TAX MATTERS" herein. The proposed text of the legal opinion is set forth in APPENDIX E. The actual legal opinion to be delivered may vary from that text if necessary to reflect facts and law on the date of delivery of the Bonds. The opinion will speak only as of its date, and subsequent distribution of it by recirculation of this Official Statement or otherwise shall create no implication that Bond Counsel has reviewed or expresses any opinion concerning any of the matters referenced in the opinion subsequent to its date.

In rendering its opinion, Bond Counsel will rely on certifications and representations of fact to be contained in the transcript of proceedings which Bond Counsel will not have independently verified.

## **ABSENCE OF LITIGATION**

### **The Issuer**

The Issuer has received no written notice of any action, suit, proceeding, inquiry or investigation to which the Issuer is a party, at law or in equity, before or by any court, public board or body, pending, or threatened, against the Issuer affecting the existence of the Issuer or the titles of its officials to their respective offices or seeking to prohibit, restrain or enjoin the financing or the sale, issuance or delivery of the Bonds or the pledge of revenues or assets of the Issuer to be pledged, as provided in the Indenture, to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds.

## **The Borrower**

There is no action, suit, proceeding, inquiry or investigation of which the Borrower has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Borrower, affecting the existence of the Borrower or the titles of its officers executing the Bond Purchase Agreement to their respective offices, or contesting or affecting as to the Borrower the validity or enforceability of the Bonds, any of the Bond Documents to which the Borrower is a party or the execution and delivery or adoption by the Borrower of any such documents, or in any way contesting or challenging the completeness or accuracy of the portions of this Official Statement captioned “THE PROJECT AND THE BORROWER,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project or the private participants), and “ABSENCE OF LITIGATION – The Borrower” or the powers of the Borrower or its authority with respect to the Bond Documents to which it is a party or the consummation of the transactions contemplated hereby or thereby.

### **CONTINUING DISCLOSURE**

The Borrower has undertaken responsibility for any continuing disclosure to Bondholders as described below, and the Issuer will have no liability to the Holders of the Bonds or any other person with respect to such disclosures.

The Borrower will enter into a Continuing Disclosure Agreement dated as of [November] 1, 2022 (the “Continuing Disclosure Agreement”) with U.S. Bank Trust Company, National Association, as the Dissemination Agent, obligating the Borrower to send, or cause to be sent, certain financial information with respect to the Project to certain information repositories annually and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board, if any, of certain enumerated events for the benefit of the Beneficial Owners and Holders of any of the Bonds, in order to allow the Underwriter to meet the requirements of Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 (the “Rule”). See “APPENDIX F – FORM OF CONTINUING DISCLOSURE AGREEMENT” hereto.

Because the Borrower is a new entity established to acquire, construct and operate the Project, it has not previously entered into any undertakings similar to the Continuing Disclosure Agreement. A failure by the Borrower to comply with the provisions of the Continuing Disclosure Agreement will not constitute a default under the Indenture or the Loan Agreement (although Holders will have any available remedy at law or in equity for obtaining necessary disclosures). Nevertheless, such a failure to comply is required to be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds.

### **MISCELLANEOUS**

The foregoing summaries and explanations do not purport to be comprehensive, and are expressly made subject to the exact provisions of documents referred to herein. Copies of the Indenture, the Regulatory Agreement, the Note and the Loan Agreement may be obtained from the Trustee or, during the initial marketing of the Bonds, the Underwriter. Any statements in this Official Statement involving matters of opinion or forecast, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement among the Issuer, the Borrower, or the Underwriter and the purchasers or Holders of any Bonds.

The Issuer makes no representations with respect to any information in this Official Statement other than the information under the headings “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer.”

The execution and delivery of this Official Statement has been approved by the Issuer and the incorporation of the appendices hereto have been duly authorized by the Borrower.

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

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

Name: Jordan Pynes

Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

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

Name: Carol Cromar

Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

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

Name: Jordan Pynes

Title: President

## APPENDIX A

### DEFINITIONS OF CERTAIN TERMS

“*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.

“*Act of Bankruptcy*” means written notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its material indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) has been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

“*Additional Payments*” means the amounts required to be paid by the Borrower pursuant to the Loan Agreement.

“*Administrative Expenses*” means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee, the Issuer’s Administrative Fee and the Rebate Analyst’s Fee.

“*Administrative General Partner*” means VA Building 402 LLC, a California limited liability company, and its permitted successors and assigns.

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

“*Authorized Borrower Representative*” means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by any authorized partner of the Borrower, which certificate may designate an alternate or alternates. The Trustee 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 Issuer) a written certificate revoking such person’s authority to act in such capacity. The initial Authorized Borrower Representative is Jordan Pynes, President of the Administrative General Partner.

“*Authorized Denomination*” means \$5,000, or any integral multiple of \$5,000 in excess thereof.

“*Authorized Official*” means the Chair of the Board of Commissioners of the Issuer or the Executive Director of the Issuer and any other person as may be designated and authorized to sign for the Issuer, or such other person at the time designated to act on behalf of the Issuer as evidenced by a written certificate furnished to the Trustee and the Borrower containing the specimen signature of such person and signed on behalf of the Issuer by an Authorized Official. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Official. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Official

is an Authorized Official until such time as such provider files with it a written certificate identifying a different person or persons to act in such capacity.

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

“**Beneficial Owner**” means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“**Beneficial Ownership Interest**” means the right to receive payments and notices with respect to the Bonds held in a Book-Entry System.

“**Bond Counsel**” means an attorney, or firm of attorneys, nationally recognized and experienced in legal work relating to the financing of facilities through the issuance of tax exempt bonds, notes, obligations or other securities, selected by the Issuer, and initially means Kutak Rock LLP.

“**Bond Documents**” means, collectively, the Indenture, the Loan Agreement, the Note, the Regulatory Agreement, the Tax Certificate and the Project Certificate.

“**Bond Fund**” means the Bond Fund created in the Indenture.

“**Bond Payment Date**” means each Interest Payment Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, Mandatory Tender, upon redemption or acceleration or otherwise.

“**Bond Purchase Agreement**” means the Purchase Contract, dated \_\_\_\_\_, 2022, among the Underwriter, the Issuer and the Borrower.

“**Bond Resolution**” means the certain approving resolution relating to the issuance and sale of the Bonds, adopted by the Governing Body on [\_\_\_\_\_, 2022].

“**Bonds**” means the Issuer’s Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F authorized in the Bond Resolution and the Indenture in an aggregate principal amount not to exceed \$33,755,000\*.

“**Bond Service Charges**” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity, Mandatory Tender or upon redemption or acceleration.

“**Book-Entry Form**” or “**Book-Entry System**” means, with respect to the Bonds, a form or system, as applicable, under which (a) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (b) the ownership of book-entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book-entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book-entry interests in those Bonds and Bond Service Charges thereon.

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\* Preliminary; subject to change.

“**Borrower**” means VA Building 402 LP, a California limited partnership, and its authorized successors and assigns.

“**Borrower Documents**” means the Financing Documents to which the Borrower is a party.

“**Borrower Loan Agreement**” means the Borrower Loan Agreement attached to the Loan Purchase Agreement, which Borrower Loan Agreement shall be executed, delivered, and become effective on the Conversion Date.

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

“**Cash Flow Projection**” means a cash flow projection prepared by an Independent firm of certified public accountants, a financial advisory firm, a law firm or other Independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing, to the satisfaction of the Rating Agency, the sufficiency of (a) the amount on deposit in the Project Fund and the Collateral Fund, (b) projected investment income to accrue on amounts on deposit in the Project Fund and Collateral Fund during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges and Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in the Indenture, (iii) a release of Eligible Funds from the Negative Arbitrage Account, as provided in the Indenture, (iv) the liquidation of Eligible Investments pursuant to a Mandatory Tender or an optional redemption of the Bonds as provided in the Indenture, (v) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to a Mandatory Tender Date, as described in the Indenture, or (vi) the purchase, sale or exchange of Eligible Investments as provided in the Indenture.

“**CCRC**” shall mean the California Community Reinvestment Corporation, a California nonprofit public benefit corporation, and its successors and assigns.

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

“**Closing Date**” means \_\_\_\_\_, 2022, the date of issuance and delivery of the Bonds.

“**Code**” means the Internal Revenue Code of 1986, as amended and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated 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).

“**Co-General Partner**” means West LA Veterans Collective, LLC, a California limited liability company, and its permitted successors and assigns.

“**Collateral Fund**” means the Collateral Fund created in the Indenture.



“**Collateral Payments**” means Eligible Funds paid to the Trustee for the benefit of the Borrower with respect to the repayment of the Loan for deposit into the Collateral Fund pursuant to the Loan Agreement and the Indenture as a prerequisite to the advance of money in the Project Fund.

“**Completion Certificate**” means the certificate attached as an exhibit to the Loan Agreement.

“**Completion Date**” means the date of completion of the Project evidenced in accordance with the requirements of the Loan Agreement.

“**Confirmation of Rating**” means a written confirmation (or, at the option of the Rating Agency, a new rating with respect to the Bonds), obtained prior to the event or action under scrutiny, from the Rating Agency to the effect that, following the proposed action or event under scrutiny at the time such confirmation is sought, the rating of the Rating Agency with respect to all Bonds then outstanding and then rated by the Rating Agency will not be downgraded, suspended, qualified or withdrawn as a result of such action or event.

“**Construction Lender**” means Wells Fargo Bank, National Association, a national banking association, and its successors and assigns.

“**Construction Loan**” means the taxable construction loan to be made by the Construction Lender to the Borrower in the principal amount of \$33,755,000\*.

“**Construction Loan Documents**” means the deed of trust, the promissory note, and all other documents required by the Construction Lender in connection with the Construction Loan.

“**Construction Loan Prepayment Fund**” means the Construction Loan Prepayment Fund created under the Indenture.

“**Continuing Disclosure Agreement**” means the Continuing Disclosure Agreement dated as of [November] 1, 2022, between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“**Controlling Holders**” means in the case of consent or direction to be given under the Indenture, the Holders of the majority in aggregate principal amount of the outstanding Bonds.

“**Conversion**” means the sale of the Loan to CCRC by the Issuer on the Conversion Date.

“**Conversion Conditions**” shall have the meaning given such term in the Loan Purchase Agreement.

“**Conversion Date**” means the date CCRC makes the Funding Loan upon the satisfaction of the Conversion Conditions; provided, however, the Conversion Date shall occur no earlier than [\_\_\_\_\_]\*.

“**Costs of Issuance**” means costs to the extent incurred in connection with, and allocable to, the issuance of the Obligations within the meaning of Section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval

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\* Preliminary; subject to change.

process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“**Costs of Issuance Fund**” means the Costs of Issuance Fund created in the Indenture.

“**County**” means Los Angeles County, California.

“**default**” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“**Depository**” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under a federal law operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of book-entry interests in the Bonds and to effect transfers of book-entry interests in the Bonds.

“**Designated Office**” means the office of the Trustee at the notice address set forth in the Indenture or, solely for purposes of presentation for transfer, payment or exchange of the Bonds, the designated corporate operations office of the Trustee at 633 West 5th Street, 24th Floor, Los Angeles, California 90071, Attn: Global Corporate Trust, or at such other address as may be specified in writing by the Trustee, as provided in the Indenture.

“**Dissemination Agent**” means U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“**Dissemination Agent Fee**” means the fee payable to the Dissemination Agent as compensation for its services and the reimbursement to the Dissemination Agent of its expenses in performing its obligations under the Continuing Disclosure Agreement.

“**DTC**” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

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

- (a) the proceeds of the Bonds (including any additional amount paid by the Underwriter to the Trustee as the purchase price of the Bonds);
- (b) money received by the Trustee constituting proceeds of the Construction Loan;
- (c) remarketing proceeds of the Bonds (including any additional amount paid by the Remarketing Agent to the Trustee as the remarketing price of the Bonds) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer or any Affiliate of either the Borrower or the Issuer);
- (d) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would

not be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;

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

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

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

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

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated “Aaa-mf” by Moody’s (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security), including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor that are registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

**“Event of Default”** means (a) with respect to the Indenture, any of the events described as an Event of Default in the Indenture and (b) with respect to the Loan Agreement, any of the events described as an Event of Default in the Loan Agreement.

**“Expense Fund”** means the Expense Fund created in the Indenture.

**“Extraordinary Issuer Fees and Expenses”** means the fees, expenses and disbursements payable to the Issuer under the Indenture or any other Financing Document for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by the Issuer, Bond Counsel, and counsel to the Issuer which are to be paid by the Borrower pursuant to the Loan Agreement.

**“Extraordinary Services”** and **“Extraordinary Expenses”** mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under the Indenture, the Loan Agreement or any other Financing Document, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include but are not limited to services rendered or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, a default (subject to the expiration of any applicable cure, notice or grace periods) or an Event of Default.

**“Extraordinary Trustee Fees and Expenses”** means the reasonable expenses and disbursements payable to the Trustee under the Indenture for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by the Trustee and the Trustee’s counsel which are to be paid by the Borrower pursuant to the Loan Agreement.

**“Favorable Opinion of Bond Counsel”** means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an Opinion of Bond Counsel to the effect that such action will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes (subject to the inclusion of any exceptions contained in the opinion delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient(s) thereof).

**“Federal Tax Status”** means, as to the Bonds, the status of the interest on the Bonds as excludable from gross income for federal income tax purposes (except on any Bond during any period during which it is held by a “substantial user” or “related person” to such a substantial user within the meaning of Section 147(a) of the Code).

**“Financing Documents”** means the Indenture, the Bonds, the Loan Agreement, the Note, the Tax Certificate, the Regulatory Agreement, the Project Certificate, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the Construction Loan Documents and any secondary financing documents, and any documents relating to low income housing tax credit equity.

**“Force Majeure”** means any of the causes, circumstances or events described as constituting Force Majeure in the Loan Agreement.

**“Funding Loan”** means the tax-exempt loan relating to the purchase of the Loan, if originated, evidenced by a note made by the Issuer and purchased by CCRC in the maximum principal amount of \$14,180,000\*.

**“Funding Loan Agreement”** means the Funding Loan Agreement attached to the Loan Purchase Agreement, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

**“General Partner”** means, individually and collectively, the Administrative General Partner, the Managing General Partner, and the Co-General Partner, and their permitted successors and assigns.

**“Governing Body”** means the Board of Commissioners of the Issuer.

**“Governmental Lender Note”** means the Governmental Lender Note attached to the Funding Loan Agreement, which Governmental Lender Note shall be executed, delivered and become effective on the Conversion Date.

**“Government Obligations”** means (i) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of

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\* Preliminary; subject to change.

the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

**“Highest Rating Category”** means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below “Aaa” or “Aaa/VMIG 1” if rated by Moody’s or “A-1+” or “AA+” if rated by S&P.

**“Holder”** or **“Holder of a Bond”** means the Person in whose name a Bond is registered on the Register.

**“Indenture”** means the Trust Indenture, dated as of [November] 1, 2022, between the Issuer and the Trustee, as amended or supplemented from time to time.

**“Independent”** when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner, member or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, partner, member, officer or employee of any partner or member of the Borrower or any Affiliate of the Borrower.

**“Initial Interest Rate”** means \_\_\_\_% per annum.

**“Initial Mandatory Tender Date”** means the earlier of (i) the Conversion Date or (ii) [\_\_\_\_] 1, 20\_\_]\*.

**“Initial Optional Redemption Date”** means [\_\_\_\_] 1, 20\_\_]\*, or any Business Day thereafter.

**“Interest Payment Date”** means (a) each [\_\_\_\_]\* 1 and [\_\_\_\_]\* 1 of each year beginning [\_\_\_\_] 1, 202\_]\*, (b) each Mandatory Tender Date and (c) each Redemption Date. In the case of a payment of defaulted interest, “Interest Payment Date” also means the date of such payment established pursuant to the Indenture.

**“Interest Period”** means, initially, the period from the Closing Date to and including [\_\_\_\_] 1, 202\_]\*, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the day preceding the next Interest Payment Date.

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

**“Interest Rate for Advances”** means the rate per annum that is [\_\_]% plus that interest rate announced by the Trustee or one of its affiliates in its lending capacity as a bank as its “Prime Rate” or its “Base Rate,” but in no event to exceed the Maximum Interest Rate.

**“Investor Limited Partner”** means Wells Fargo Affordable Housing Corp., a North Carolina corporation, and its permitted successors and assigns.

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\* Preliminary; subject to change.

**“Issuance Fee”** means a fee equal to \$[84,387.50], which is payable on the Closing Date to the Issuer from funds provided by or on behalf of the Borrower.

**“Issuer”** means the Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State, or any successor to its rights and obligations under the Loan Agreement and the Indenture.

**“Issuer Documents”** means the Financing Documents to which the Issuer is a party.

**“Issuer Fees and Expenses”** means the Extraordinary Issuer Fees and Expenses.

**“Issuer Indemnified Persons”** means the Issuer, the Governing Body, the County, and each and all of their respective past, present and future directors, commissioners, members, staff, officers, supervisors, officials, counsel, employees, attorneys, agents and advisers (including Bond Counsel and financial advisors) and any person who controls the Issuer, the Governing Body and the County under federal securities laws.

**“Issuer’s Administrative Fee”** means the annual fee of the Issuer payable as set forth in the Regulatory Agreement.

**“Loan”** means the loan by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

**“LACDA”** means the Los Angeles County Development Authority, a public body, corporate and politic, organized and existing under the laws of the State, or any successor thereto.

**“Loan Agreement”** means the Loan Agreement, dated as of [November] 1, 2022, between the Issuer and the Borrower, as amended or supplemented from time to time and assigned by the Issuer to the Trustee, except for the Reserved Rights.

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

**“Loan Purchase Agreement”** means that certain Loan Purchase Agreement dated as of [November] 1, 2022, by and among the Borrower, the Construction Lender, the Issuer, the Trustee, and CCRC.

**“Managing General Partner”** means Housing Corporation of America, a Utah nonprofit corporation, and its permitted successors and assigns.

**“Mandatory Tender”** means a tender of the Bonds required by the Indenture.

**“Mandatory Tender Date”** means (i) the Initial Mandatory Tender Date and (ii) if the outstanding Bonds are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the Remarketing Date following such Remarketing Period, but in no case later than [\_\_\_\_\_] 1, 20\_\_].

**“Maturity Date”** means [\_\_\_\_\_] 1, 20\_\_]\*.

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\* Preliminary; subject to change.

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

“**Moody’s**” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Remarketing Agent.

“**Negative Arbitrage Account**” means the Negative Arbitrage Account of the Bond Fund created in the Indenture.

“**Note**” means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached as an exhibit to the Loan Agreement and in the principal amount of \$33,755,000\*, evidencing the obligation of the Borrower to make Loan Payments and any modifications thereto.

“**Opinion of Bond Counsel**” means an opinion of Bond Counsel.

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

“**Ordinary Services**” and “**Ordinary Expenses**” mean those services normally rendered, and those expenses normally incurred, by a trustee or an issuer under instruments similar to the Indenture.

“**Ordinary Trustee Fees and Expenses**” means amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under the Indenture, payable annually in advance on the Closing Date and on each [November] 1 thereafter while the Bonds are outstanding in an annual amount equal to \$3,600; provided, however, the amount of Ordinary Trustee Fees and Expenses payable under the Indenture is limited to money withdrawn from the Costs of Issuance Fund and the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid directly by the Borrower pursuant to the Loan Agreement.

“**Organizational Documents**” means the Amended and Restated Agreement of Limited Partnership of the Borrower, as it may be amended from time to time.

“**Outstanding Bonds**,” “**Bonds outstanding**” or “**outstanding**” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under the Indenture, except:

(a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;

(b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);

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\* Preliminary; subject to change.

(c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of the Indenture; and

(d) Bonds in lieu of which others have been authenticated under the Indenture.

**“Permanent Loan Amount”** has the meaning given to the term CCRC Purchase Price in the Loan Purchase Agreement.

**“Permitted Liens”** means liens relating to the Project permitted by the Construction Loan Documents.

**“Person”** or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

**“Plans and Specifications”** means the plans and specifications describing the Project as of the Closing Date and as they may be changed as provided in the Loan Agreement.

**“Predecessor Bond”** of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under the Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in the Indenture, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

**“Project”** means the 120-unit multifamily housing facility known or to be known as West Los Angeles VA Campus Building 402 Apartments, to be located at 11301 Wilshire Boulevard in unincorporated Los Angeles County, California 78744.

**“Project Certificate”** means the Borrower Cost Certificate, dated the Closing Date, executed by the Borrower in connection with the issuance of the Bonds.

**“Project Costs”** means the costs of the Project specified in the Loan Agreement.

**“Project Fund”** means the Project Fund created in the Indenture.

**“Purchase Price”** means a price equal to 100% of the principal amount of such Bonds, without premium.

**“Qualified Project Costs”** means the actual costs incurred to acquire, construct and equip the Project which (i) are or were incurred after June 11, 2021, (ii) are (a) chargeable to the Project’s capital account or would be so chargeable either with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs, within the meaning of Treasury Regulation Section 1.103-8(a)(1), and if charged or chargeable to the Project’s capital account are or would have been deducted only through an allowance for depreciation or (b) made for the acquisition of land, to the extent allowed in Section 147(c) of the Code and (iii) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code and subject in all respects to the Tax Certificate and the Project Certificate or (iv) if the costs incurred to acquire, construct and equip the Project were previously paid and are to be reimbursed with proceeds of the Loan such costs were (A) Costs of Issuance, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the Project that do not exceed 20% of the issue price of



the Bond (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditure is paid); provided however, that if any portion of the Project is being constructed or developed by the Borrower or an affiliate (whether as a developer, a general contractor or a subcontractor).

**“Rating Agency”** means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns, and initially means Moody’s so long as Moody’s is rating the Bonds.

**“Rating Category”** means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

**“Rebate Amount”** has the meaning specified for such term in the Tax Certificate.

**“Rebate Analyst”** means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected by the Issuer and retained by the Borrower at the expense of the Borrower to make the rebate computations required under this Indenture and the Loan Agreement. Initially, the Rebate Analyst will be Kutak Rock LLP.

**“Rebate Analyst’s Fee”** means the fee payable by the Borrower annually in arrears to the Rebate Analyst on each [\_\_\_\_\_] 1 and on the Mandatory Tender Date, in the amount determined by agreement between the Borrower and the Rebate Analyst so long as any of the Bonds are outstanding.

**“Rebate Fund”** means the Rebate Fund created in the Indenture.

**“Redemption Date”** means any date on which the Bonds are to be redeemed pursuant to the Indenture.

**“Register”** means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to the Indenture.

**“Regular Record Date”** means, with respect to any Bond, the fifteenth day of the calendar month next preceding each Interest Payment Date.

**“Regulations”** means the applicable proposed (if opted into by the Issuer at the direction of the Borrower), temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

**“Regulatory Agreement”** means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [November] 1, 2022, among the Issuer, the Borrower and the Trustee, as amended or supplemented from time to time.

**“Remarketing Agent”** means initially Wells Fargo Bank, National Association, and any successor Remarketing Agent that may be designated in accordance with the Indenture.

**“Remarketing Agreement”** means the Remarketing Agreement dated as of [November] 1, 2022, between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

**“Remarketing Date”** means the date on which the Bonds initially are remarketed, and if the outstanding Bonds on such date or on any subsequent Remarketing Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

**“Remarketing Expenses”** means the reasonable costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel and financial advisor, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees, the costs of a Cash Flow Projection and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

**“Remarketing Notice Parties”** means the Borrower, the Issuer, the Trustee, the Remarketing Agent, the Investor Limited Partner and the Rating Agency.

**“Remarketing Period”** means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to the Indenture or the final Maturity Date of the Bonds, as applicable.

**“Remarketing Proceeds Account”** means the Remarketing Proceeds Account of the Bond Fund created in the Indenture.

**“Remarketing Rate”** means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then outstanding from and including the Mandatory Tender Date to, but not including, the immediately succeeding Mandatory Tender Date or the Maturity Date, as applicable.

**“Reserved Rights”** of the Issuer means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to the Loan Agreement, including but not limited to the Issuer Fee and Expenses, the Issuance Fee and the Issuer’s Administrative Fee; (c) all rights of the Issuer to receive any Rebate Amount; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent under the Indenture and the other Financing Documents; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Tax Certificate and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in the Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note, as applicable, regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act, the Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note, (4) the maintenance of insurance by the Borrower, (5) no liability of the Issuer to third parties, and (6) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of the Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement, and the Note, (h) any and all limitations of the Issuer’s liability and the Issuer’s disclaimers of warranties set forth in the Indenture, the Tax Certificate, the Regulatory Agreement or the Loan Agreement, and the Issuer’s right to inspect and audit the books, records and permits of the Borrower and the Project, and (i) all enforcement remedies with respect to the foregoing.

**“Revenues”** means (a) the Loan Payments, (b) the Collateral Payments, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing money. The term

“Revenues” does not include any money or investments in the Rebate Fund, the Construction Loan Repayment Fund, Additional Payments, or other payments or amounts with respect to the Reserved Rights.

“**S&P**” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Remarketing Agent.

“**Special Funds**” means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in the Indenture.

“**Special Record Date**” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

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

“**Supplemental Indenture**” means any indenture supplemental to the Indenture entered into between the Issuer and the Trustee in accordance with the Indenture.

“**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 as of the Closing Date, between the Issuer and the Borrower, as amended or supplemented from time to time.

“**Trust Estate**” means the property rights, money, securities and other amounts pledged and assigned to the Trustee under the Indenture pursuant to the Granting Clauses of the Indenture.

“**Tendered Bond**” means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

“**Trustee**” means U.S. Bank Trust Company, National Association, a national banking association, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“**Trustee Indemnified Persons**” means the Trustee and each and all of its past, present and future directors, officers, employees, attorneys, agents and advisers (including counsel).

“**Trust Estate**” means the property rights, money, securities and other amounts pledged and assigned to the Trustee under the Indenture.

“**Underwriter**” means Wells Fargo Bank, National Association.

“**Unredeemed Bonds**” means, on any Mandatory Tender Date, Bonds that are not scheduled to be redeemed pursuant to the Indenture.

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## APPENDIX B

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following is a brief summary of certain provisions of the Indenture which contains terms and conditions relating to the issuance and sale of Bonds under it, including various covenants and security provisions. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Indenture, a copy of which is on file with the Trustee. This summary uses various terms defined in the Indenture and such terms as used herein shall have the same meanings as so defined.*

#### **Creation of Funds**

The following funds and accounts are to be held in trust and maintained by the Trustee under the Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such accounts as provided in the Indenture);
- (b) the Project Fund, and therein the Bond Proceeds Account;
- (c) the Costs of Issuance Fund;
- (d) the Collateral Fund;
- (e) the Rebate Fund;
- (f) the Expense Fund; and
- (g) the Construction Loan Prepayment Fund (which shall not be pledged to the payment of the Bonds and shall not be part of the Trust Estate).

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in the Indenture. All money deposited in the funds and accounts created under the Indenture shall be used solely for the purposes set forth in the Indenture. The Trustee shall keep and maintain adequate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

The Trustee shall, at the written direction of an Authorized Borrower Representative and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Borrower or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of the Indenture or the Tax Certificate with respect to a deposit or use of money in the Special Funds or the Rebate Fund, or result in commingling of funds not permitted under the Indenture.

## **Bond Fund**

On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount, if any, set forth in the Indenture.

The Trustee shall deposit in the Remarketing Proceeds Account of the Bond Fund any amounts received from the remarketing of the Unredeemed Bonds. Money in the Remarketing Proceeds Account shall be held exclusively for the payment of the Purchase Price of the Unredeemed Bonds.

So long as there are any outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid by the Borrower on or before each Interest Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the Bond Service Charges due on the Bonds on such Interest Payment Date.

The Bond Fund (and any accounts therein for which provision is made in the Indenture) and the money and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due, in the following order: (1) from money on deposit in the Bond Fund, and (2) from money on deposit in the Negative Arbitrage Account of the Bond Fund provided further, to the extent funds in the Bond Fund are otherwise insufficient, the trustee shall transfer funds to the Bonds Fund first from the Collateral Fund and second from the Project Fund as needed.

Upon receipt by the Trustee of a Cash Flow Projection provided on behalf of the Borrower, the Trustee is authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Authorized Borrower Representative.

## **Project Fund**

Upon the deposit of Collateral Payments in the Collateral Fund as provided in the Indenture, and subject to the provisions of this heading, the Trustee may disburse the Bond proceeds on deposit in the Project Fund to or at the written direction of the Construction Lender or the Borrower, as applicable, for payment of Project Costs in accordance with the Loan Agreement. To the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is authorized by the Indenture to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer, from Collateral Payments or other Eligible Funds then deposited in the Collateral Fund, a corresponding amount from the Collateral Fund to the Project Fund, which transfer is deemed to be of the proceeds of the sale of the Eligible Investments then allocated from the Project Fund to the Collateral Fund. The Trustee shall be irrevocably and unconditionally obligated to (i) disburse from the Project Fund an amount equal to the amount deposited into the Collateral Fund to or at the written direction of the Construction Lender or the Borrower, as applicable, or (ii) return to the Construction Lender or the Borrower, as applicable, the amount deposited into the Collateral Fund, within one (1) Business Day of receipt of such deposit. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund or the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to pay Bond Service Charges then due on the Bonds without further written direction.

The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested in writing by the Issuer, the Investor Limited Partner or the

Borrower, after the Project has been completed and a Completion Certificate is filed as provided in the Indenture, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer, the Borrower and the Investor Limited Partner. The Trustee shall satisfy this obligation by providing trust statements for all periods in which there are funds in the Project Fund.

Notwithstanding any provision of the Loan Agreement or any other provision of the Indenture to the contrary and except to make necessary interest payments, the Trustee shall not disburse money from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until Collateral Payments or other Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. Prior to making any disbursement (except to the extent necessary to pay Bond Service Charges), the Trustee shall determine that the aggregate principal amount that will be held in (a) the Collateral Fund and (b) the Project Fund, after the anticipated disbursement, is at least equal to the then-outstanding principal amount of the Bonds.

In the event that Bond proceeds remain on deposit in the Project Fund after payment in full of Bond Service Charges in connection with a redemption of the Bonds, such amount may be used to pay costs of the Project as provided in the Loan Agreement.

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

### **Collateral Fund**

The Trustee shall deposit into the Collateral Fund all Collateral Payments received pursuant to the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. The Loan Agreement requires the Borrower to cause Collateral Payments to be paid to the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, amounts on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.

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

On any Redemption Date, the Trustee shall transfer all amounts then on deposit in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund, the Trustee shall transfer from the Collateral Fund to the Bond Fund sufficient money to pay Bond Service Charges then due on the Bonds without further written direction.

Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay costs of the Project as provided in the Loan Agreement.

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

Anything in the Indenture to the contrary notwithstanding, at any time up to ninety (90) days prior to the Initial Mandatory Tender Date, the purchaser (the “Purchaser”) of any obligations issued to refund Bonds may deliver Eligible Funds to the Trustee for deposit into the Collateral Fund, and promptly following such receipt, the Trustee shall transfer a corresponding amount of other Eligible Funds on deposit in the Collateral Fund to the Construction Lender, or as otherwise directed by the Purchaser.

### **Rebate Fund**

The Rebate Fund is created for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Issuer or the Holders of the Bonds. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust and applied solely as provided in the Tax Certificate. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under the Indenture. Notwithstanding the foregoing, the Trustee is afforded all the rights, protections and immunities otherwise accorded to it under the Indenture.

### **Investment of Special Funds**

Except as otherwise set forth in this heading, money in the Special Funds shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of an Authorized Borrower Representative, and money in the Rebate Fund shall be invested and reinvested by the Trustee as provided in the Tax Certificate. In the absence of written directions of an Authorized Borrower Representative as provided above, the Trustee shall invest such funds in [the Federated US Treasury Cash Reserves Fund, CUSIP No. 60934N674], or if such fund is not available, the Trustee shall be required to invest such funds in the investments described in clause (b) of the definition of Eligible Investments. At no time shall the Borrower direct that any funds constituting Gross Proceeds (as defined in the Tax Certificate) of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code, all as set forth in the Tax Certificate. Moneys in the Costs of Issuance Fund and the Expense Fund shall be held uninvested.

Investments of money in the Bond Fund and the Collateral Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide money to pay Bond Service Charges on the Bonds as they become due on each Bond Payment Date. Each investment of money in the Project Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund. Any of those investments may be purchased from or sold to the Trustee, or any bank, trust company or savings and loan association that is an Affiliate of the Trustee. The Trustee may act as principal or agent in the making or disposing of any investment and may utilize its investment department or that of its affiliate and charge its standard investment handling fees. The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable under the Indenture to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity, the Borrower shall, at the Borrower’s expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any.

An investment made from money credited to the Special Funds shall constitute part of that respective Special Fund. All investment earnings from amounts on deposit in the Project Fund and the Collateral Fund shall be allocated to the Bond Fund. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Special Funds shall be credited to and become part of the Bond Fund. All investment earnings, gains resulting from the sale of, or income from, any investment

made from amounts on deposit in the Rebate Fund shall be retained therein. Any investment losses from moneys credited to a Special Fund shall be charged against that Special Fund. The Trustee shall not be liable for losses on investments made in compliance with the provisions of the Indenture. Ratings of Eligible Investments shall be determined at the time of purchase of such Eligible Investments and without regard to ratings subcategories. Following the Closing Date, at the written direction of the Authorized Borrower Representative, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything in the Indenture to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and any amounts deposited in the Negative Arbitrage Account shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Subject to the following sentence, investments shall be sold at the best price obtainable (at least par) whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from the applicable Special Fund. Prior to the Initial Mandatory Tender Date, at the written direction of the Authorized Borrower Representative, the Trustee is permitted to invest in Eligible Investments that mature on or before a Mandatory Tender Date but is not permitted to sell or otherwise dispose of such Eligible Investment prior to maturity at a price below par without first receiving from or on behalf of the Borrower: (i) a Cash Flow Projection, and (ii) Eligible Funds in the amount, if any, set forth in such Cash Flow Projection.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Issuer has notified the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

### **Construction Loan Prepayment Fund**

On the Conversion Date, the Trustee shall deposit into the Construction Loan Prepayment fund the proceeds of the CCRC Purchase Price and other funds of the Borrower such that the amount in the Construction Loan Prepayment Fund equals the amount required to prepay the Construction Loan in full on the Conversion Date.

### **Defaults; Events of Default**

Each of the following is an “Event of Default” under the Indenture:

(a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;

(b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, Mandatory Tender, upon redemption, acceleration or otherwise;

(c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in the Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by certified United States mail, or overnight delivery service by a national carrier to the Issuer and the Borrower specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Controlling Holders, provided if such failure cannot be reasonably cured within



such 30 days, then the Issuer will be afforded an additional sixth day to cure such failure, provided that the Issuer has commenced efforts to cure within the initial 30 day period; and

- (d) The occurrence and continuance of an Event of Default as defined in the Loan Agreement.

The term “default” or “failure” as used above means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in the Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute an Event of Default, as provided above or in the Loan Agreement.

Anything in the Indenture to the contrary notwithstanding, the Investor Limited Partner shall have the cure rights set forth under the heading “Acceleration” below.

### **Acceleration**

Upon the occurrence and continuation of an Event of Default described in (a) or (b) under the heading “Events of Default” above, the Trustee may, and upon the written request of the Controlling Holders shall, subject to the terms of the Indenture, by written notice delivered to the Borrower and the Issuer, declare the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence and continuation of any Event of Default other than those described in (a) and (b) under the heading “Events of Default” above, the Trustee may, and upon written consent of all Holders of Bonds then outstanding, shall declare by a notice in writing delivered to the Borrower, the principal of all Bonds then outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, the principal and interest on the Bonds shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided that interest on any unpaid principal of Bonds outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement under the Indenture (after an opportunity for hearing by the Issuer and the Borrower),

- (i) all sums payable under the Indenture (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee, and

- (ii) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

The Investor Limited Partner shall be entitled (but not obligated) to cure any Event of Default under the Indenture within the time frame provided under the Indenture. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner shall be deemed

to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

### **Other Remedies; Rights of Holders**

With or without taking action described under the heading “Acceleration” above, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or in equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under the Indenture, the Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested in writing so to do by the Controlling Holders, the Trustee (subject to the provisions of the Indenture), shall exercise any rights and powers conferred by the Indenture.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by the Indenture is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture or otherwise to the Trustee or to the Holders now or hereafter existing, provided that the only remedy enforceable against the Issuer shall be for specific performance of its covenants under the Indenture.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

No waiver of any default or Event of Default under the Indenture, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement (other than with respect to the Reserved Rights). In exercising any remedy, right or power under the Indenture or the Loan Agreement, the Trustee shall take any action which would best serve the interests of the Holders in the judgment of the Trustee, applying the standards described in the Indenture.

Nothing in the Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding without the approval of the Holders so affected.

### **Right of Holders to Direct Proceedings**

Anything to the contrary in the Indenture notwithstanding, the Controlling Holders shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings under the Indenture; provided, that (i) any direction shall not be other than in accordance with the provisions of law and of the Indenture, (ii) the

Trustee shall be indemnified as provided in the Indenture, and (iii) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

### **Application of Money**

If at any time after the occurrence of an Event of Default, the money held by the Trustee under the Indenture (other than amounts in the Rebate Fund) shall not be sufficient to pay the principal of and interest on the Bonds as the same become due and payable, such money, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of remedies in the Indenture or otherwise, shall be applied by the Trustee as described below.

After payment of any costs (including court costs), expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all fees of the Trustee for Ordinary and Extraordinary Expenses pursuant to any right given or action taken under the provisions of the Indenture or the provisions of the Financing Documents (including without limitation, court costs and reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under the Indenture), all money received by the Trustee shall be applied as follows, subject to the provisions of the Indenture:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money shall be deposited in the Bond Fund and shall be applied:

First -- To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Second -- To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to the Indenture, all of such money shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable, and if that declaration thereafter shall have been rescinded and annulled, subject to the provisions

of paragraph (b) above in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of the Indenture.

(d) Whenever money is to be applied pursuant to the provisions described under this subcaption, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the money is available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of the Indenture for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

### **Rights and Remedies of Holders**

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of the Indenture, for the execution of any trust under the Indenture, or for the exercise of any other remedy under the Indenture, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in the Indenture, or of which it is deemed to have notice under the Indenture,

(b) the Controlling Holders shall have made written request to the Trustee and shall have offered indemnity to the Trustee as provided in the Indenture, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted under the Indenture or to institute the suit, action or proceeding in its own name within 60 days of receipt of the written request and offer of indemnity.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent, in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of the Indenture by its or their action, or to enforce, except in the manner provided therein, any remedy, right or power under the Indenture. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided in the Indenture for the benefit of the Holders of all Bonds then outstanding. Nothing in the Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

### **Waivers of Events of Default**

Except as described below, at any time, in its discretion, the Trustee may waive any Event of Default under the Indenture and its consequences and may rescind and annul any declaration of maturity of

principal of or interest on, the Bonds. The Trustee shall do so upon the written request of the Controlling Holders.

There shall not be so waived, however, any Event of Default described in (a) or (b) under “–Events of Default” above or any declaration of acceleration in connection therewith rescinded or annulled, unless, at the time of that waiver or rescission and annulment, payments of the amounts provided in the Indenture for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights under the Indenture, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

### **Supplemental Indentures Not Requiring Consent of Holders**

Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into Supplemental Indentures for any one or more of the following purposes:

- (a) to cure any ambiguity, inconsistency or formal defect or omission in the Indenture;
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) to assign additional revenues under the Indenture;
- (d) to accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) to add to the covenants, agreements and obligations of the Issuer under the Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in the Indenture;
- (f) to evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under the Indenture, the Loan Agreement and the Bonds;
- (g) to facilitate (i) the transfer of Bonds held in Book Entry Form from one Depository to another and the succession of Depositories, or (ii) the withdrawal of Bonds delivered to a Depository for use in a Book Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Depository;
- (h) to permit the Trustee to comply with any obligations imposed upon it by law;
- (i) to specify further the duties and responsibilities of the Trustee; and
- (j) to achieve compliance of the Indenture or the Bonds with any applicable federal securities or income tax law.

The provisions of paragraphs (h) and (j) shall not be deemed to constitute a waiver by the Trustee, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to the Indenture or the Bonds.

### **Supplemental Indentures Requiring Consent of Holders**

Exclusive of Supplemental Indentures described above and subject to the terms, provisions and limitations described below, and not otherwise, with the consent of the Controlling Holders, evidenced as provided in the Indenture, and with the consent of the Borrower (if required by the Indenture), the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of the Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in the Indenture is to permit, however, or be construed as permitting,

(a) without the consent of the Holder of each Bond so affected: (i) an extension of the maturity of the principal of or the interest on any Bond, or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes described under this subcaption, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by the Indenture, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid (or, when the Bonds are in a Book-Entry System, sent pursuant to the applicable procedures of the Depository), to all Holders of Bonds then outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding sending such notice.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, the Depository's failure to send or the failure of any Holder to receive, the notice described above. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as described above. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated Office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the sending of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Controlling Holders (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything in the Indenture to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the

Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds outstanding shall have consented to the Supplemental Indenture, as described above, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

### **Consent of the Borrower**

Anything contained in the Indenture to the contrary notwithstanding, any Supplemental Indenture executed and delivered in accordance with the Indenture that affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of that Supplemental Indenture; provided, however, that no consent shall be required if the Borrower is the source of an Event of Default under the Loan Agreement. The Trustee has no obligation to determine whether or not (i) a Supplemental Indenture affects in any material respect any rights or obligations of the Borrower or (ii) the source of an Event of Default is the Borrower. In this regard, the Trustee may conclusively rely on the Opinion of Counsel as provided in the Indenture.

### **Defeasance**

Release of Indenture. If (i) all of the outstanding Bonds are paid and discharged, or if there otherwise shall be paid to the Holders of the outstanding Bonds, all Bond Service Charges due or to become due thereon, and (ii) provision also shall be made for the payment of all other sums payable under the Indenture or the Loan Agreement, the Regulatory Agreement, the Tax Certificate and the Note, then the Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of the Indenture in the event the Bonds are deemed paid and discharged pursuant to “Payment and Discharge of Bonds” below), and the covenants, agreements and obligations of the Issuer under the Indenture shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of the Indenture if applicable,

(a) the Trustee shall release the Indenture (except for those provisions surviving by reason of the Indenture in the event the Bonds are deemed paid and discharged pursuant to “Payment and Discharge of Bonds” below), and, upon receipt of an Opinion of Counsel stating that all conditions precedent to such release have been satisfied, shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer, and

(b) the Trustee shall assign and deliver to the Issuer any property subject at the time to the lien of the Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under the Indenture, or (ii) to be held by the Trustee under the Indenture or otherwise for the payment of Bond Service Charges.

Payment and Discharge of Bonds. All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of the Indenture if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient Eligible Funds, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable Government Obligations (or a combination of Eligible Funds and noncallable Government Obligations) which are certified by an Independent public accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any Eligible Funds to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Service Charges on those Bonds at their maturity, or their redemption date, as the case may be, and

(c) the Trustee shall have been given irrevocable written instructions from either the Issuer or the Authorized Borrower Representative to give the written notice to the Holders as required pursuant to the Indenture.

Any money held by the Trustee in accordance with the provisions of the Indenture may be invested by the Trustee only in noncallable Government Obligations having maturity dates, or having redemption dates which, at the option of the owner of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for such purposes, that income, interest or increment shall be transferred at the time of that determination in the manner provided in the Indenture for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this heading, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall (i) state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, and (ii) set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this heading.

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## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a summary of certain provisions of the Loan Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement, a copy of which is on file with the Trustee. This summary uses various terms defined in the Loan Agreement and such terms as used herein shall have the same meanings as so defined.*

#### **Issuance of Bonds; Application of Proceeds**

To provide funds to make the Loan for purposes of assisting the Borrower in paying Project Costs, the Issuer shall simultaneously with the execution and delivery of the Loan Agreement proceed with the issuance, sale and delivery of the Bonds upon receipt by the Trustee of the items listed in the Indenture. The Issuer agrees the proceeds of sale of the Bonds will be deposited in accordance with the Indenture.

The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, mandatory tender and remarketing pursuant to and as set forth in the Indenture. Under the Loan Agreement, the Borrower approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture. The Borrower has agreed to perform fully and faithfully all the duties and obligations which the Issuer has covenanted and agreed to in the Indenture to cause the Borrower to perform.

Pending disbursement pursuant to the Loan Agreement, the proceeds of the Bonds deposited in the Project Fund, together with any investment earnings thereon, shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

#### **Disbursements from the Project Fund**

Subject to the provisions below and so long as no Event of Default under the Loan Agreement has occurred and is continuing for which the principal amount of the Bonds has been declared to be immediately due and payable pursuant to the Loan Agreement and the Indenture, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

(a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, engineering, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to the limitations set forth in the Tax Certificate, Costs of Issuance of the Bonds, including, financial, legal, accounting, cash flow verification, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, improvement and equipping of the Project.

(g) Payment of interest on the Bonds during the construction period.

(h) Subject to reallocation for federal income tax purposes as described in the Tax Certificate, payment of interest on the Construction Loan.

Any disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only upon the receipt by the Trustee of: (a) a disbursement request in the form attached to the Loan Agreement as an exhibit, on which the Trustee may conclusively rely; and (b) Collateral Payments in an amount equal to the amount of any such disbursement request for deposit in the Collateral Fund as provided in the Loan Agreement. The Trustee shall not make disbursements more frequently than once each calendar month. Each such disbursement request shall be consecutively numbered and accompanied by a copy of the approval of the Construction Lender of the payments or reimbursements requested. Proceeds of the Bonds disbursed pursuant to the provisions of the Loan Agreement may only be used to pay those Project Costs identified in the sources and uses of funds attached to the Loan Agreement as an exhibit, as it may be amended pursuant to the agreement of the Construction Lender and the Borrower.

Any disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds shall be accompanied by a Favorable Opinion of Bond Counsel.

Any money in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs, at the direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Service Charges.

Notwithstanding any provision of the Loan Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that Eligible Funds in the Collateral Fund plus Eligible Funds in the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds; provided, however, the Trustee shall be permitted to transfer funds from the Project Fund to the Collateral Fund upon the direction of the Borrower in the form set forth on an exhibit attached to the Loan Agreement, provided that the result of such transfer is that the amount of Eligible Funds remaining on deposit in the Project Fund plus Eligible Funds on deposit in the Collateral Fund is at least equal to then outstanding principal amount of the Bonds.

### **Loan Repayment; Delivery of Note**

In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, a Loan Payment in an amount equal to the amount necessary to pay Bond Service Charges due on such Bond Payment Date. All such Loan Payments shall

be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and the Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To secure the Borrower's performance of its obligations under the Loan Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note, the Tax Certificate, the Regulatory Agreement and the Project Certificate.

So long as no Event of Default has occurred and is continuing under the Loan Agreement, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be canceled by the Trustee and surrendered to the Borrower.

### **Collateral Payments**

In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall cause the delivery of Collateral Payments equal to the amount of the proposed disbursement by the Trustee on or before each such disbursement. All such Collateral Payments shall be paid to the Trustee for the account of the Issuer and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Any such Collateral Payment amounts shall be provided to the Trustee in writing and the Trustee shall not be responsible for computing any amounts under this section.

### **Assignment of Agreement and Revenues; Trustee is Third Party Beneficiary**

To secure the payment of Bond Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in the Loan Agreement (except for the Reserved Rights). In the Loan Agreement, the Borrower agrees and consents to those assignments. To the extent within its control, the Issuer has agreed in the Loan Agreement that it will not attempt to further assign, transfer or convey its interest in the Revenues or the Loan Agreement or create any pledge or lien of any form or nature with respect to the Revenues, Loan Payments or Collateral Payments under the Loan Agreement.

The Trustee shall be a third party beneficiary of the Loan Agreement.

### **Borrower's Obligations Upon Tender of Bonds**

If any Unredeemed Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Special Funds for the purpose of paying the redemption price of the Bonds pursuant to the Indenture, the Borrower will cause to be paid to the Trustee as set forth in the Indenture Eligible Funds equal to the amount by which the redemption price of the Bonds exceeds the amount otherwise available pursuant to the Indenture.

## Events of Default

Each of the following shall be an “Event of Default” under the Loan Agreement:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts credited as paid and/or transferred from the Collateral Fund and the Project Fund, are insufficient to pay the Bond Service Charges due on such date;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in the Loan Agreement and the continuation of such failure for a period of 30 days after written notice thereof shall have been given to the Borrower by the Issuer or the Trustee, or for such longer period as the Issuer (with respect to the Reserved Rights) and the Trustee may, pursuant to the written direction of the Controlling Holders, agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for 90 days; (iv) make a general assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;

(d) Any representation or warranty made by the Borrower in the Loan Agreement or any statement in any report, certificate, financial statement or other instrument furnished in connection with the Loan Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an “Event of Default” as defined in the Indenture.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition of the Loan Agreement which would give rise to an Event of Default under subsection (b) above, the Borrower shall not be deemed in default (or that an Event of Default is occurring) during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term Force Majeure shall mean, without limitation, the following:

(i) acts of God; a prohibition by applicable law from performance during a pandemic, strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people;

explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; or partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal or state bankruptcy, insolvency, reorganization or similar law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, insolvency, liquidation or reorganization proceedings.

### **Amendments and Supplements**

Except as otherwise expressly provided in Loan Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, the Loan Agreement, the Tax Certificate, the Regulatory Agreement and the Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of the Indenture, as applicable.

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## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

*The following is a summary of certain provisions of the Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement, a copy of which is on file with the Trustee. This summary uses various terms defined in the Regulatory Agreement and such terms as used herein shall have the same meanings as so defined.*

#### Definitions

“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 the Regulatory Agreement.

“Area” means the Los Angeles Primary Metropolitan Statistical Area.

“Bond” means the LACDA’s Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F authorized, authenticated, and delivered pursuant to the Act and under the Indenture on the Closing Date.

“Bond Counsel” means (i) Kutak Rock LLP, or (ii) any other attorney at law or other 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 political subdivisions, selected by the LACDA 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 Trustee.

“Bond Documents” means (i) prior to the Conversion Date, the Indenture, the Loan Agreement, this Regulatory Agreement, the Tax Certificate, and any other document now or prior to the Conversion Date executed by the Borrower, the LACDA, the Trustee, or the Bondholders in connection with the Bond and (ii) following the Conversion Date, the Funding Loan Agreement, the Borrower Loan Agreement, this Regulatory Agreement, the Tax Certificate and any other document now or hereafter executed by the Borrower, the LACDA, the Fiscal Agent or the Noteholder in connection with the Note.

“Bondholder” or “Holder” means (i) prior to the Conversion Date, the parties identified as the owners of the Bond on the registration books maintained by the Trustee on behalf of the LACDA and (ii) following the Conversion Date, the Noteholder.

“Borrower” means VA Building 402 LP, a California limited partnership, and its successors and assigns.

“Borrower Loan Agreement” means the Borrower Loan Agreement entered into on the Conversion Date by and between the LACDA and the Borrower, as amended or supplemented from time to time.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“CDLAC Resolution” means CDLAC Resolution No. 22-128 adopted on June 15, 2022, attached to the Regulatory Agreement as an exhibit 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 to be filed with the LACDA at the times specified in the Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached to the Regulatory Agreement as an exhibit 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 LACDA and the Trustee at the times specified in the Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached to the Regulatory Agreement as an exhibit or such other form as may from time to time be prescribed by the LACDA.

“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 the Regulatory Agreement 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 the 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 delivered to the LACDA, the Trustee and CDLAC not more than 30 months after the Closing Date, in substantially the form attached to the Regulatory Agreement or such other form required or otherwise provided by CDLAC from time to time.

“Determination of Taxability” means either (a) refusal by the Borrower to consent to any amendment or supplement to the Regulatory Agreement or to the Indenture which, in the written opinion of Bond Counsel delivered to the LACDA, the Trustee and the Borrower, is necessary or advisable to maintain the exclusion of interest on the Obligations from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Trustee has actual knowledge, (ii) a final judgment or order of a court of original or appellate jurisdiction of which the Trustee has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Trustee has actual knowledge or (iv) the filing with the Trustee of an opinion of Bond Counsel, in each case to the effect that the interest on the Obligations (other than interest on the Obligations for any period during which such Obligations are held by a “substantial user” of any facility financed with the proceeds of the Obligations 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, following the Conversion Date, U.S. Bank Trust Company, National Association in its capacity as fiscal agent under the Funding Loan Agreement, together with its successors and assigns.

“Funding Loan Agreement” means the Funding Loan Agreement entered into as of the Conversion Date by and among the LACDA, the Funding Lender, and the Fiscal Agent relating to 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).

“Ground Lease” means that certain [Sub-Ground Lease] by and between [\_\_\_\_\_], as landlord, and the Borrower, as tenant.

“Housing Act” means the United States Housing Act of 1937, as amended, or its successor.

“Income Certification” means, initially, an Income Certification in the form attached to the Regulatory Agreement as an exhibit or in such other form as may from time to time be provided by the LACDA to the Borrower and, with respect to recertifications, the Annual Tenant Income Recertification attached to the Regulatory Agreement as an exhibit, the California Tax Credit Allocation Committee Tenant Income Certification Form, or such other form as may, from time to time, be provided by the LACDA to the Borrower.

“Indenture” means (i) prior to the Conversion Date, that certain Trust Indenture dated as of [November] 1, 2022, between the LACDA and the Trustee, and (ii) following the Conversion Date, the Funding Loan Agreement.

“Inducement Date” means August 10, 2021.

“Investor Limited Partner” means Wells Fargo Affordable Housing Corp., a North Carolina corporation, its successors and assigns.

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

“Loan” means (i) prior to the Conversion Date, the loan of the sale of the proceeds of the Bond by the LACDA to the Borrower pursuant to the Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project and (ii) following the Conversion Date, the loan of the sale proceeds of the Note by the LACDA to the Borrower pursuant to the Borrower Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project.

“Loan Agreement” means (i) prior to the Conversion Date, the Loan Agreement dated as of [November] 1, 2022, by and between the LACDA and the Borrower, as amended or supplemented from time to time, relating to the Loan of the proceeds of the Bond and (ii) following the Conversion Date, the Borrower Loan Agreement, relating to the Loan of the proceeds of the Note.



“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 in the Regulatory Agreement, 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 the Regulatory Agreement.

“Net Proceeds” means the total proceeds derived from the issuance, sale and delivery of the Obligations, representing the total purchase price of the Obligations, including any premium paid as part of the purchase price of the Obligations, but excluding the accrued interest, if any, on the Obligations paid by the initial purchasers of the Obligations.

“Note” means the LACDA’s Multifamily Housing Revenue Note (West Los Angeles VA Campus Building 402 Apartments) 2022 Series F authorized, authenticated and delivered pursuant to the Act and the Funding Loan Agreement on the Conversion Date.

“Noteholder” means, following the Conversion Date, the party identified as the owner of the Note on the registration books maintained by the Fiscal Agent on behalf of the LACDA.

“Obligation” means (i) prior to the Conversion Date, the Bond, and (ii) following the Conversion Date, the Note.

“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, in which a subleasehold estate is granted to the Borrower under the Ground Lease, having the street address of 11301 Wilshire Boulevard, in unincorporated Los Angeles County, California, and all rights and appurtenances thereunto appertaining, as more particularly described in an exhibit to the Regulatory Agreement.

“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 Obligations, 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 in the Regulatory Agreement 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 the proceeds of the Obligations 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 later of (a) (i) the date which is 15 years after the date on which 50% of the dwelling units in the Project are first occupied, (ii) 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 (iii) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates or (b) the date which is 55 years from the date on which 50% of the dwelling units in the Project are first occupied.

“Regulations” means the Income Tax Regulations promulgated or proposed (if deemed appropriate in the opinion of Bond Counsel) by the Department of the Treasury pursuant to the Code from time to time.

“Tax exempt” means, with respect to interest on any obligations of a state or local government, including the Obligations, that such interest is excluded from gross income for federal income tax purposes (other than interest on the Obligations for any period during which the Obligations are held by a “substantial

user” of any facility financed with the proceeds of the Obligations 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.

“Trustee” means (i) prior to the Conversion Date, U.S. Bank Trust Company, National Association, in its capacity as trustee under the Indenture, together with its successors and assigns, and (ii) following the Conversion Date, the Fiscal Agent.

“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 in the Regulatory Agreement, 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 the Regulatory Agreement.

### **Residential Rental Property**

The Borrower has acknowledged and agreed 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 has represented, covenanted, warranted and agreed as follows:

(a) The Project Facilities will be constructed and 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 paragraph (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 (which shall not include any manager 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) in the Project will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except 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 in the Regulatory Agreement, (2) to the extent not otherwise inconsistent with the requirements of this paragraph (e), the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the LACDA), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law and (5) the requirements of the Ground Lease.

(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 paragraph 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 LACDA 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 Indenture 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.

### **Very Low Income Tenants and Low Income Tenants; Records and Reports**

Pursuant to the requirements of the Code and the LACDA, the Borrower has represented, warranted and covenanted 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 the dwelling units in the Project are occupied by tenants providing an Income Certification, the Borrower shall execute and deliver to the LACDA and a copy to CDLAC and the Trustee 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 paragraph (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) under this caption (if applicable). If the Project consists of more than one building, this requirement shall apply on a building by building basis.

(d) Pursuant to the CDLAC Conditions attached to the Regulatory Agreement and for the entire term of the Regulatory Agreement, the Project shall consist of 118 units plus 2 manager units of which at least 118 units shall be rented or held vacant for rental for persons or families whose income is at or below 50% of the area median income.

### **Additional Requirements of the Act**

In addition to the other requirements set forth in the Regulatory Agreement, and without limiting any additional requirements described under the caption “Additional Requirements of the LACDA” below, during the Qualified Project Period, the Borrower and the LACDA have agreed to comply with each of the requirements of the Act, and, without limiting the foregoing, the Borrower has specifically agreed to comply with each of the requirements described under this caption, 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) under this caption (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 the Regulatory Agreement that shall contain sufficient information to allow the LACDA to file any annual report required by the Act or pursuant to California Government Code Section 8855.5 and, no later than January 31 of each calendar year, the Borrower, on behalf of the LACDA, shall provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, with a copy to the LACDA, any annual report information required by California Government Code Section 8855(k)(1) until the later of the date the Obligations are no longer outstanding or the proceeds of the Obligations have been fully spent.

(d) No portion of the Obligations shall be used to finance the acquisition, construction, equipping, refinancing or development of commercial property for lease.

(e) Reserved.

(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 Obligations, deed in lieu of foreclosure, eminent domain or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to the Regulatory Agreement 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 in the Regulatory Agreement;

(ii) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this caption, 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 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 LACDA 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 LACDA 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 in the Regulatory Agreement.

(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 apply or 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 paragraph (a) under this caption 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 paragraph (b) under the caption “Very Low Income Tenants and Low Income Tenants; Records and Reports” and paragraph (a) under the caption “Additional Requirements of the LACDA” below. 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 paragraph (b) under the caption “Very Low Income Tenants and Low Income Tenants; Records and Reports” and paragraph (a) under the caption “Additional Requirements of the LACDA” below.

(k) The units reserved for occupancy as required by paragraph (a) under this caption 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 of the Regulatory Agreement 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 the Regulatory Agreement.

#### **Additional Requirements of the LACDA**

In addition to, and not in derogation of, any of the other requirements set forth in the Regulatory Agreement, each of which has been incorporated in the provisions described under this caption as a specific requirement of the LACDA, whether or not required by California or federal law, the Borrower has represented, warranted, covenanted and agreed as follows:

(a) The Borrower shall promptly provide to the LACDA such information with respect to the Project or the Obligations as the LACDA shall from time to time request. The Borrower shall provide written notice to the LACDA 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, 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 units 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 units 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 LACDA; 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 the Regulatory Agreement.

(g) All Income Certifications will be maintained on file at the Project or, with the prior written consent of the LACDA, at the principal place of business of the Borrower or the property manager of the Project, so long as the 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 LACDA (i) at the times specified by the Regulatory Agreement, 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 LACDA, 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 LACDA to file any periodic report, or any other information concerning the Project as the LACDA may reasonably request.

(j) Reserved.

(k) The LACDA may, at its option and at its expense, at any time appoint an administrator to administer the Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements of the Regulatory Agreement. Following any such appointment, the Borrower shall comply with any request by the LACDA to deliver to such administrator, in addition to or instead of the LACDA, any reports, notices or other documents required to be delivered pursuant to the Regulatory Agreement, 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 LACDA.

(l) If upon the annual certification or recertification required by the Regulatory Agreement 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 in the Regulatory Agreement 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 five 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 the Regulatory Agreement. The Borrower must maintain, in its files, a copy of each notice containing each tenant's signed acknowledgement of the notice required under the Regulatory Agreement. The notice shall, at the least, contain language that the rent restrictions under the Regulatory Agreement shall be for a term ending at the expiration of the Qualified Project Period. Upon termination of the rent restriction period under the Regulatory Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

(ii) Thirty-six months prior to the termination of the rent restriction period under the Regulatory Agreement, the 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 LACDA, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development. In addition, the Borrower, within 36 months of a scheduled expiration of rental restrictions, shall also provide notice of the scheduled expiration of rent restrictions to any prospective tenant at the time he or she is interviewed for eligibility.

(iii) Twelve months prior to the termination of the rent restriction period under the Regulatory Agreement, the 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 LACDA, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development.

(iv) Six months prior to the termination of the rent restriction period under the Regulatory Agreement, the 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 LACDA, the Chair of the Board of Supervisors of the County and the California Department of Housing and Community Development.

(v) Ninety days prior to the termination of the rent restriction period under the Regulatory Agreement, the Borrower must again give written notice to its tenants of the

termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels.

Unless the Borrower meets the requirements of California Government Code Section 65863.13, pursuant to California Government Code Section 65863.11, prior to or concurrently with the 12 month notice referred to above in (iii), the Borrower must provide notice of the opportunity to offer to purchase the assisted housing development to all qualified entities on the list maintained by the California Department of Housing and Community Development as well as to those qualified entities that contact the Borrower directly. The notice shall conform to the requirements of California Government Code Section 65863.11(h) and shall be sent to the entities by registered or certified mail, return receipt requested. The Borrower shall also post a copy of the notice in a conspicuous place in the common area of the Project.

### **Sale or Transfer of the Project; Equity Interests**

The Borrower has covenanted and agreed 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 of the Regulatory Agreement); (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 Bond Documents without the prior written approval of the LACDA, which approval the LACDA may withhold in its sole and absolute discretion.

At any time the Borrower desires to effect a Transfer under the Regulatory Agreement, the Borrower shall notify the LACDA in writing (a "Transfer Notice") and shall submit to the LACDA 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 LACDA sufficient to establish and ensure that all requirements described under this caption have been and will be met (collectively, the "Transfer Documents"). No Transfer Documents shall be approved by the LACDA unless they expressly provide for the assumption by the proposed transferee of all of the Borrower's obligations under the Bond Documents. The Transfer Notice shall include a request that the LACDA consent to the proposed Transfer. The LACDA 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 LACDA receives the last of the items required by the provisions described under this caption. In the event the LACDA consents to a proposed Transfer, then such Transfer shall not be effective unless and until the LACDA 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 LACDA.

Except as expressly provided in the provisions described under this caption, in connection with any Transfer under the Regulatory Agreement, the purchaser or assignee shall also: (i) deliver to the LACDA an opinion of such purchaser or assignee's counsel to the effect that each such document and the 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 LACDA an opinion of Bond Counsel addressed to the LACDA to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-exempt status of interest on the Obligations; and (iii) pay to the LACDA and the Trustee all fees and/or expenses then currently due and payable to the LACDA and the Trustee (together with the Transfer Documents, the "Transfer Deliveries").

Notwithstanding the foregoing, the Borrower agrees that it shall not be permitted to make any Transfer, whether or not the LACDA's consent is required and even if the LACDA 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 LACDA or at any time thereafter until such Event of Default has been cured.

Except as expressly provided in the provisions described under this caption, the provisions described under this caption shall apply to each successive Transfer and proposed transferee in the same manner as initially applicable to the Borrower under the terms set forth in the Regulatory Agreement.

Notwithstanding anything to the contrary set forth in the Regulatory Agreement, if the Project receives funding through an allocation of low income housing tax credits under Section 42 of the Code (“LIHTCs”), the LACDA has consented 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 if the replacement general partner is an entity that is not an affiliate of the Limited Partner, such replacement general partner shall be approved by the LACDA, 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 LACDA that the Borrower intends to pursue such transfers of partnership interest at least 10 Business Days before the scheduled date of such transfers except for the removal of the general partner pursuant to clause (iv) above which notice provisions are described below; further, if the general partner is being replaced pursuant to clause (iii) above, the Borrower shall provide evidence acceptable to the LACDA 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 LACDA. 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 LACDA that they have taken such action when they take such action; (b) provide the LACDA 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 Bond Documents, if any, from and after the substitution of the general partner.

The Borrower shall use its best efforts to provide the LACDA 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 the provisions described under this caption 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 Trustee required under the Indenture or any other Bond Documents.

Notwithstanding anything contained in the provisions described under this caption to the contrary, neither the consent of the LACDA nor the delivery of the Transfer Deliveries shall be required in the case of a foreclosure or deed in lieu of foreclosure, whereby the Bondholders or a designee or third party purchaser becomes the Borrower of the Project, and nothing contained in the provisions described under

this caption shall otherwise affect the right of the Bondholders, the Trustee 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 Bond Documents. However, if the Trustee or the Bondholders acquire title to the Project by foreclosure or deed in lieu of foreclosure and the Regulatory Agreement has not been terminated pursuant to the provisions described under the caption "Term" below, consent of the LACDA and delivery of the Transfer Deliveries shall be required for any transfer of the Project subsequent to the Trustee's or the Bondholder's acquisition of the Property by foreclosure or deed in lieu of foreclosure.

Upon any sale or other transfer which complies with the Regulatory Agreement, the Borrower shall be fully released from its obligations under the Regulatory Agreement, 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 described under this caption. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement with respect to any action or inaction taken prior to such transfer. Nothing contained in the provisions described under this caption shall affect any provision of the other Bond 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 for (A) Permitted Encumbrances or Permitted Transfers or (b) a Transfer permitted by the Loan Agreement and the 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 Obligations; provided that such opinion will not be required with respect to any lease permitted under the 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 Bond Documents and except to the extent that what is demolished or 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 Trustee acquires title to the Project by foreclosure or deed in lieu of foreclosure, no consent of the LACDA shall be required to such transfer under the Regulatory Agreement and no other conditions shall be required to be satisfied. However, if the Trustee acquires title to the Project by foreclosure or deed in lieu of foreclosure and the Regulatory Agreement has not been terminated pursuant to the provisions described under the caption "Term" below, consent of the LACDA shall be required for any transfer of the Project subsequent to the Trustee's acquisition of the Project by foreclosure or deed in lieu of foreclosure.

Notwithstanding anything to the contrary contained in the Regulatory Agreement, the interest of the Borrower's limited partner shall be transferable under the Regulatory Agreement to any affiliate of the limited partners of the Borrower, without the consent of the LACDA and/or Trustee 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.

## **Term**

The Regulatory Agreement and all and each of the provisions thereof shall become effective upon its execution and delivery and shall remain in full force and effect for the periods provided in the Regulatory

Agreement and, except as otherwise provided in the provisions described under this caption shall terminate in its entirety at the end of the Qualified Project Period (or such later date provided under the caption “Requirements of CDLAC” below 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 of the Regulatory Agreement are intended to survive the retirement of the Obligations, discharge of the Loan and termination of the Indenture and the Loan Agreement.

Notwithstanding the foregoing, the certain provisions of the Regulatory Agreement shall, in the case of the Trustee, survive the term of the Regulatory Agreement or the replacement of the Trustee, but only as to claims arising from events occurring during the term of the Regulatory Agreement or the Trustee’s tenure as Trustee under the Indenture, and shall, in the case of the LACDA, survive the term of the Regulatory Agreement, but only as to claims arising from events occurring during the term of the Regulatory Agreement.

The terms of the Regulatory Agreement to the contrary notwithstanding, the Regulatory Agreement and all the requirements set forth therein (except for certain terms more specifically set forth in the Regulatory Agreement) shall terminate and be of no further force and effect in the event of (a) involuntary noncompliance with the provisions of the 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 LACDA or the Trustee from enforcing the provisions of the Regulatory Agreement, 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 Obligations 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 the Regulatory Agreement and provided that, in either case, an opinion of Bond Counsel (unless waived by the LACDA) is delivered to the Trustee to the effect that the exclusion from gross income for federal income tax purposes of interest on the Obligations 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 has agreed 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 the Regulatory Agreement, the parties thereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms of the Regulatory Agreement; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of the Regulatory Agreement in accordance with its terms.

### **Default; Enforcement**

If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the LACDA to the Borrower, then the LACDA shall declare an “Event of Default” to have occurred under the Regulatory Agreement; 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 under the Regulatory Agreement 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 Obligations. The Trustee has consented to any

correction of the default by the LACDA on behalf of the Borrower. The LACDA has consented to any correction of a default on the part of the Borrower under the Regulatory Agreement made by the Borrower's limited partners on behalf of the Borrower within the time periods provided under this caption. Copies of any notices sent to the Borrower under the Regulatory Agreement shall simultaneously be sent to the Borrower's limited partners at the address set forth in the Regulatory Agreement.

Following the declaration of an Event of Default under the Regulatory Agreement, the Trustee, as directed by the LACDA and subject to the provisions of the Indenture relative to the Trustee's duty to exercise remedies generally, or the LACDA 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 under the Regulatory Agreement or enjoin any acts or things which may be unlawful or in violation of the rights of the LACDA or the Trustee under the Regulatory Agreement;
- (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 under the Regulatory Agreement.

During the Qualified Project Period, the Borrower has granted to the LACDA 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 under this caption of the Borrower's default under the 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 LACDA 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 units 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 the 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 Trustee 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 LACDA under this provision shall terminate with respect to each default upon the achievement, by the Borrower, the Trustee or the LACDA, of compliance with the requirements of the Regulatory Agreement, and any subleases entered into pursuant to the LACDA's option shall be deemed to be leases from the Borrower. The LACDA 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 set forth in the Regulatory Agreement. Any rental paid under any such sublease shall be paid to the Borrower after the LACDA 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 Trustee for credit against payments due under the Loan Agreement. The Trustee shall have the right, as directed by the LACDA, in accordance with the provisions described under this caption and the provisions of the Indenture, to exercise any or all of the rights or remedies of the LACDA under the Regulatory Agreement, provided that prior to taking any such action the Trustee shall give the LACDA written notice of its intended action. All reasonable fees, costs and expenses of the LACDA and the Trustee

incurred in taking any action pursuant to the provisions described under this caption shall be the sole responsibility of the Borrower. All rents received by the LACDA from such subleases, less the LACDA'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 LACDA for the benefit of the Borrower. The LACDA agrees to allow the Borrower access to the LACDA's books and records relating to the collection and disbursement of rents received pursuant to such subleases.

### **Requirements of CDLAC**

In addition to other requirements set forth in the Regulatory Agreement and to the extent not prohibited by other requirements set forth in the Regulatory Agreement, the Borrower has agreed to comply with each of the requirements of CDLAC described under this caption, 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 in the Regulatory Agreement by reference and made a part thereof and is attached to the Regulatory Agreement as an exhibit. Notwithstanding anything to the contrary in the Regulatory Agreement, the provisions described under this caption shall remain effective for the period specified in the CDLAC Conditions, unless the Regulatory Agreement shall terminate as otherwise provided in the provisions described under the caption "Term" above.

(b) The Borrower acknowledges that the LACDA shall monitor the Borrower's compliance with the terms of the CDLAC Conditions. The Borrower will cooperate fully with the LACDA in connection with such monitoring and reporting requirements as provided in the Regulatory Agreement. Compliance with the terms of the CDLAC Conditions not contained within the Regulatory Agreement, but referred to in the CDLAC Conditions is the responsibility of the Borrower to report to the LACDA.

(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 LACDA not later than January 15 of each year, and the LACDA will submit to CDLAC not later than March 1 of each year, until the Borrower has submitted to the LACDA 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 Qualified Project Period, 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 LACDA, not later than January 15 of each year, and the LACDA will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the LACDA 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 Qualified Project Period, 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 LACDA, Trustee and CDLAC, a Construction Completion Certificate. Following the submission of the Construction Completion Certificate, the



Borrower will prepare and submit to the LACDA, 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 under the caption “Term” above, the 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 Obligations, (iii) any change in the name of the Project or the Project manager; (iv) any default under the Indenture, the Loan Agreement or the Regulatory Agreement; or (v) termination of the Regulatory Agreement.

(e) Any of the foregoing requirements of CDLAC described under this caption may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement described under this caption shall, or shall be deemed to, extend to or affect any other provision of the Regulatory Agreement except to the extent the LACDA has received an opinion of Bond Counsel that any such provision is not required by the Code and the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Obligations for federal income tax purposes; and (ii) any requirement described under this caption shall be void and of no force and effect if the LACDA and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Obligations to cease to be Tax-exempt or to the effect that compliance with such requirement would be in conflict with the Code, the Act, or any other state or federal law.

(f) CDLAC is intended to be and is a third party beneficiary of the Regulatory Agreement, and CDLAC shall have the right (but not the obligation) to enforce, separately or jointly with the LACDA and/or the Trustee or to cause the LACDA or the Trustee to enforce, the provisions of paragraph (d) above and to pursue an action for specific performance of such provisions or other available remedy at law or in equity in accordance with the provisions of the Regulatory Agreement, provided that any such action or remedy shall not materially adversely affect the interests and rights of the Bondholders and shall otherwise be subject to the terms, conditions and limitations applicable to the enforcement of remedies under the 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: (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 LACDA may, in its sole and absolute discretion, require the Borrower to enter into an amendment to the Regulatory

Agreement reflecting the revised CDLAC Conditions, which amendment shall be executed by the parties to the Regulatory Agreement or their successor in title and duly recorded in the real property records of the County. 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.

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**APPENDIX E**

**FORM OF OPINION OF BOND COUNSEL**

[TO COME]

## APPENDIX F

### FORM OF CONTINUING DISCLOSURE AGREEMENT

\$33,755,000\*

Los Angeles County Development Authority  
Multifamily Housing Revenue Bonds  
(West Los Angeles VA Campus Building 402 Apartments), 2022 Series F

This Continuing Disclosure Agreement, dated as of [November] 1, 2022 (this “Continuing Disclosure Agreement”), is executed and delivered by VA Building 402 LP, a California limited partnership (the “Borrower”), and U.S. Bank Trust Company, National Association, as dissemination agent (the “Dissemination Agent”), for the above-captioned bonds (the “Bonds”). The Bonds are being issued pursuant to a Trust Indenture, dated as of [November] 1, 2022 (the “Indenture”) between the Los Angeles County Development Authority (the “Issuer”) and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Pursuant to the Indenture and the Loan Agreement, dated as of [November] 1, 2022, between the Issuer and the Borrower (the “Loan Agreement”), the Dissemination Agent and the Borrower covenant and agree as follows:

Section 1. Purpose of this Continuing Disclosure Agreement. This Continuing Disclosure Agreement is being executed and delivered by the Borrower, which is deemed to be the “obligated person” as defined by the Rule (defined below), and the Dissemination Agent for the benefit of the Holders and in order to assist the Underwriter in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Continuing Disclosure Agreement, and has no liability to any Person, including any holder of the Bonds or Beneficial Owner, with respect to any such reports, notices or disclosures.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Continuing Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Continuing Disclosure Agreement.

“*Audited Financial Statements*” means, in the case of the Borrower, the annual audited financial statements of the Borrower prepared in accordance with generally accepted accounting principles, if any.

“*Beneficial Owner*” shall mean any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including Persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Disclosure Representative*” shall mean, with respect to the Borrower, the administrator of the Project or his or her designee, or such other Person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

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\* Preliminary; subject to change.

“*Dissemination Agent*” shall mean U.S. Bank Trust Company, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

“*Material Events*” shall mean any of the events listed in Section 5(a) of this Continuing Disclosure Agreement.

“*MSRB*” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB. Initially, all document submissions to the MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB’s Electronic Municipal Market Access (EMMA) system at [www.emma.msrb.org](http://www.emma.msrb.org).

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“*Underwriter*” means Wells Fargo Bank, National Association and its successors and assigns.

Section 3. Provision of Annual Reports. (a) The Borrower will, or will cause the Dissemination Agent to, not later than 180 days following the end of the Borrower’s fiscal year, commencing with the fiscal year ending December 31, 2022, provide to the MSRB the Annual Report which is consistent with the requirements described below. No later than 15 Business Days prior to said date, the Borrower will provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross reference other information, provided that the audited financial statements for the prior calendar year of the Borrower may be submitted separately from the balance of the Annual Report.

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Borrower shall provide the Annual Report to the Dissemination Agent or shall certify in writing that the Borrower has provided the Annual Report to the MSRB.

(c) If the Dissemination Agent has not received the Annual Report or has not received a written certification from the Borrower that it has provided the Annual Report to the MSRB by the date required in subsection (a), the Dissemination Agent will send a notice to the MSRB in substantially the form attached as Exhibit B to this Continuing Disclosure Agreement (with a copy thereof to the Borrower).

(d) The Dissemination Agent will, unless the Borrower has certified in writing that the Borrower has provided an Annual Report to the MSRB, file a report with the Borrower and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report delivered to it to be provided to the MSRB has been so provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided.

Section 4. Content of Annual Reports. The Borrower’s Annual Report will contain or incorporate by reference the financial information or operating data with respect to the Project, provided at least annually, of the type included in Exhibit A hereto, which Annual Report may, but is not required to, include Audited Financial Statements. If the Borrower’s audited financial statements are not available by the time the Annual Report is required to be filed, the Annual Report will contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements will be filed in the same manner as the Annual Report when they become available.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an “obligated person” (as defined by the Rule), which have been filed with the MSRB. The Borrower will clearly identify each such other document so incorporated by reference.

Section 5. Reporting of Material Events. (a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a “Material Event”):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of Holders, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) Appointment of a successor or additional trustee or paying agent or the change of the name of a trustee or paying agent, if material;

(xv) incurrence of a financial obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material; and

(xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties.

For purposes of clauses (xv) and (xvi) of this Section 5(a), “financial obligation” is as contemplated by Exchange Act Release No. 34-83885; File No. S7-01-17 (the “Adopting Release”).

(b) The Dissemination Agent shall, within five (5) Business Days of obtaining actual knowledge of the occurrence of any Material Event, pursuant to subsection (c) of this Section or otherwise, provide the Disclosure Representative with written notice. The Dissemination Agent shall not be deemed to have actual knowledge of those items listed in Section 5(a) above without the Dissemination Agent having received written notice of such event from the Borrower, at its Principal Office (as designated in Section 11 herein); provided, however, while the Dissemination Agent is also the Trustee, the Dissemination Agent shall be deemed to have actual knowledge of those items listed in clauses (i) and (xiv).

(c) Whenever the Borrower obtains knowledge of the occurrence of a potential Material Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than seven (7) Business Days after the occurrence of such event, determine if such event is in fact a Material Event that is required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions pursuant to subsections (d) or (e) below, as applicable.

(d) If the Borrower has determined that a Material Event is required to be disclosed, then the Borrower shall prepare a written notice describing the Material Event and provide the same to the Dissemination Agent along with instructions to file the same pursuant to subsection (f) below.

(e) If the Borrower determines that an event is not required to be disclosed as a Material Event then the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been provided with a written notice describing a Material Event pursuant to subsection (c) of this Section or otherwise, and is instructed by the Borrower to report the occurrence of such Material Event, the Dissemination Agent shall, within three (3) Business Days of its receipt of such written notice, provided that the Borrower has complied with the notice requirements set forth in subsection (c), and no more than ten (10) Business Days after the occurrence of the Material Event, file the notice with the MSRB and send a copy to the Borrower. The foregoing notwithstanding, notice of a Material Event described in subsections (a)(viii) and (ix) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Indenture.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Continuing Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Continuing Disclosure Agreement and any provision of this Continuing Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions described under paragraph (a) under “Provision of Annual Reports,” “Contents of Annual Reports” or paragraph (a) under “Reporting of Material Events,” it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of an obligated person with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Continuing Disclosure Agreement, the Borrower will describe such amendment in the next Annual Report and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a Material Event under Section 5(f) hereof and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 7. Default. In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement, and such failure to comply continues beyond a period of thirty (30) days following written notice to the Borrower, then the Borrower or any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement will not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Continuing Disclosure Agreement will be an action to compel performance.

Section 8. Beneficiaries. This Continuing Disclosure Agreement will inure solely to the benefit of the Borrower, the Trustee, the Dissemination Agent, the Underwriter and Holders from time to time of the Bonds and will create no rights in any other Person or entity.

Section 9. Additional Information. Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.



Section 10. Duties, Immunities and Liabilities of Dissemination Agent. This Continuing Disclosure Agreement governs the Borrower's direction to the Dissemination Agent with respect to information to be provided to the MSRB pursuant to the Rule. In its actions under this Continuing Disclosure Agreement, the Dissemination Agent is acting not as Trustee, but as the Borrower's agent; provided that the Dissemination Agent shall be entitled to the same protections, limitations from liability and indemnities in so acting under this Continuing Disclosure Agreement as it has in acting as Trustee under the Indenture as fully as if the applicable provisions of the Indenture were set forth herein.

The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement and no implied covenants shall be read herein against the Dissemination Agent. The Dissemination Agent and the Trustee shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the Borrower, the Holders, the Underwriter, or any other Person. Neither the Trustee nor the Dissemination Agent shall have any liability to the Holders or any other party for any monetary damages or financial liability of any kind whatsoever related to or arising from the breach of this Continuing Disclosure Agreement.

The Dissemination Agent agrees to disseminate the information provided to it hereunder in the form delivered by the Borrower. The Dissemination Agent is acting hereunder solely in an agency capacity and as such is merely a conduit for the Borrower and shall have no liability or responsibility for the form, content, accuracy or completeness of any information furnished hereunder. Any such information may contain a legend to that effect.

The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Borrower has provided such information to the Dissemination Agent as required by this Continuing Disclosure Agreement. The Dissemination Agent shall have no obligation to make disclosure concerning the Bonds, the Project or any other matter except as expressly set out herein, provided that no provision of this Continuing Disclosure Agreement shall limit the duties, trusts, rights, powers or obligations of the Trustee under the Indenture. The fact that the Dissemination Agent or affiliate thereof has or may have any banking, fiduciary or other relationship with the Borrower or any other party in connection with the Project or otherwise, apart from the relationship created by this Continuing Disclosure Agreement, shall not be construed to mean that the Dissemination Agent or affiliate thereof has knowledge or notice of any event or condition relating to the Bonds or the Project except in its respective capacities under this Continuing Disclosure Agreement.

No provision of this Continuing Disclosure Agreement shall require or be construed to require the Borrower or the Dissemination Agent to interpret or provide an opinion concerning any information disclosed hereunder.

The Annual Report may contain such disclaimer language as the Borrower may deem appropriate. Any information disclosed hereunder by the Dissemination Agent may contain such disclaimer language as the Dissemination Agent may deem appropriate.

The Borrower hereby agrees to compensate the Dissemination Agent for the services provided and the expenses incurred pursuant to this Continuing Disclosure Agreement, in an amount to be agreed upon from time to time hereunder, and to reimburse the Dissemination Agent upon its request for all reasonable expenses, disbursements and advances incurred by the Dissemination Agent hereunder (including any reasonable compensation and expenses of counsel).

The Dissemination Agent may consult with counsel of its choice and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any

action taken, suffered or omitted by it hereunder in good faith and in reliance thereon, it being understood that for purposes of this provision, that such counsel may be counsel to the Borrower.

No provision of this Continuing Disclosure Agreement shall require the Dissemination 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 of powers.

The Borrower agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any actual loss, expense and liabilities (“Losses”) which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the actual costs and expenses (including court costs and attorneys’ fees) of defending against, any claim of liability, but excluding Losses due to the Dissemination Agent’s own negligence or willful misconduct. The indemnity provisions of this Section 10 shall survive the termination of this Continuing Disclosure Agreement and the legal defeasance, prior redemption or prepayment of all the Bonds, and the resignation or removal of the Dissemination Agent.

Section 11. Notices. Any notices or communications to or among any of the parties to this Continuing Disclosure Agreement may be given at the addresses set forth in the Indenture. Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices of communications should be sent, effective only upon receipt.

Section 12. Governing Law. This Continuing Disclosure Agreement shall be governed by the laws of the State of California without regard to conflict of laws principles.

Section 13. Termination of this Continuing Disclosure Agreement. This Continuing Disclosure Agreement may be terminated by any party to this Continuing Disclosure Agreement upon thirty days’ written notice of termination delivered to the other party or parties to this Continuing Disclosure Agreement; provided the termination of this Continuing Disclosure Agreement is not effective until (i) the Borrower, or its successor, enters into a new continuing disclosure agreement with a dissemination agent who agrees to continue to provide, to the MSRB and the Beneficial Owners of the Bonds, all information required to be communicated pursuant to the rules promulgated by the Securities and Exchange Commission or the MSRB, (ii) a nationally recognized bond counsel or counsel expert in federal securities laws provides an opinion that the new continuing disclosure agreement is in compliance with all applicable state and federal securities laws, and (iii) notice of the termination of this Continuing Disclosure Agreement is provided to the MSRB.

The Dissemination Agent shall be fully discharged at the time any such termination is effective. Also, this Continuing Disclosure Agreement shall terminate automatically upon (i) payment or provisions for payment of the Bonds, or (ii) when all of the Bonds are or are deemed to be no longer outstanding by reason of redemption or legal defeasance or at final maturity.

Section 14. Counterparts. This Continuing Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15. Electronic Signatures. The parties agree that the electronic signature of a party to this Continuing Disclosure Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Continuing Disclosure Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (PDF) or other replicating image attached to an electronic mail or internet message.

[Borrower's Signature Page to Continuing Disclosure Agreement]

VA BUILDING 402 LP, a California limited partnership

By: VA Building 402 LLC, a California limited liability company, its administrative general partner

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

Name: Jordan Pynes

Title: President

By: Housing Corporation of America, a Utah nonprofit corporation, its managing general partner

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

Name: Carol Cromar

Title: President

By: West LA Veterans Collective, LLC, a California limited liability company, its co-general partner

By: Thomas Safran & Associates Development Inc., a California corporation, its co-manager

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

Name: Jordan Pynes

Title: President

[Counterpart Signature Page to Continuing Disclosure Agreement]

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

EXHIBIT A

ANNUAL REPORT

\$33,755,000\*

Los Angeles County Development Authority  
 Multifamily Housing Revenue Bonds  
 (West Los Angeles VA Campus Building 402 Apartments), 2022 Series F

CUSIP: \_\_\_\_\_

Annual report for the period ending December 31, \_\_\_\_\_

THE PROJECT

Name of the Project:	West Los Angeles VA Campus Building 402 Apartments
Address:	11301 Wilshire Boulevard in unincorporated Los Angeles County, California 78744
Number of Units:	120

OPERATING HISTORY OF THE PROJECT

The tables set forth below offer a summary of the operating results of the Project for fiscal year ended December 31, 20\_\_, as derived from the Borrower's audited financial statements [or unaudited financial statements].

Financial Results for Fiscal Year Ending December 31, _____	
Revenues	
Operating Expenses <sup>1</sup>	
Net Operating Income	
Debt Service on the Bonds	
Net Income (Loss)	
Debt Service Coverage Ratio	

<sup>1</sup> Excludes depreciation and other non-cash expenses.

Occupancy Results for Fiscal Year Ending December 31, _____	
Physical Occupancy	_____ %
Economic Occupancy <sup>1</sup>	_____ %

<sup>1</sup> The physical occupancy rate is the proportion of units that are occupied or leased by tenants. The economic occupancy rate is the proportion of the gross potential rent that is actually collected. As such, the economic occupancy takes into consideration items such as model units, employee units, discounted units, rent incentives, loss to lease and bad debt expense.

\* Preliminary; subject to change.

EXHIBIT B

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF  
FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Los Angeles County Development Authority  
Name of Bond Issue: Multifamily Housing Revenue Bonds (West Los Angeles VA Campus Building  
402 Apartments), 2022 Series F  
Name of Borrower: VA Building 402 LP  
Date of Issuance: \_\_\_\_\_, 2022

NOTICE IS HEREBY GIVEN that the above-referenced borrower (the “Borrower”) has not provided an Annual Report in connection with the above-named bonds (the “Bonds”) as required by a Continuing Disclosure Agreement, dated as of [November] 1, 2022 (the “Continuing Disclosure Agreement”), between the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent (the “Dissemination Agent”). The undersigned has been informed by the Borrower that it anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

cc: Borrower