

## LOS ANGELES COUNTY AFFORDABLE HOUSING SOLUTIONS AGENCY PROJECT FUNDING AGREEMENT (PPO NOFA #1)

This Los Angeles County Affordable Housing Solutions Agency Project Funding Agreement (PPO NOFA #1) by and between the Los Angeles County Affordable Housing Solutions Agency, a special act agency (“**Agency**”), the Los Angeles Affordable Housing Solutions Consortium, a joint exercise of powers authority (“**Consortium**”) and [Developer Name] a [entity] (“**Borrower**”). The below Recitals, together with Part A – Funding Term Sheet (“**Funding Term Sheet**”), Part B – Standard Terms and Conditions (“**Standard Terms and Conditions**”) and the Exhibits are collectively the “**Funding Agreement.**”

### RECITALS

A. In September 2022, Governor Newsom signed Senate Bill 679, known as the Los Angeles County Regional Housing Finance Act (“**Act**”). The Act created Agency to increase the supply of affordable housing by providing enhanced funding and technical assistance for renter protections, affordable housing preservation, and new affordable housing production.

B. In November 2024, Los Angeles County voters approved “**Measure A,**” known as the Affordable Housing, Homelessness Solutions, and Prevention Now Transactions and Use Tax Ordinance. Measure A established a one-half percent sales tax on every dollar of goods sold in Los Angeles County to provide dedicated funding for various purposes, including reducing and preventing homelessness and increasing the supply of affordable housing.

C. Measure A directs the Los Angeles County Auditor-Controller to disburse 35.75% of the proceeds generated to Agency for use in accordance with the requirements of the Act and Measure A. Measure A requires that the Agency use a portion of the Agency’s share of Measure A revenues to fund the construction or preservation of affordable housing units.

D. Agency released a Notice of Funding Availability # 1 (“**NOFA**”), which sought applications to fund affordable housing production and preservation projects. The NOFA contains nine categories of financing products that applicants could apply for.

E. Borrower applied to Agency, and Agency conditionally awarded, funds under the NOFA product categories and in the amounts as set forth in the Funding Term Sheet.

F. In order to fund projects under the NOFA, Agency formed Consortium to serve as a conduit issuer of bonds pursuant to the Marks-Roos Local Bond Pooling Act. Consortium intends to issue two categories of bonds to fund Projects under the NOFA: Tax-Exempt Bonds and Taxable Bonds. The particular bonds funding the portions of this Project (as hereafter defined) are identified in the Funding Term Sheet.

G. Such bonds are payable to their holders from proceeds of Measure A received by Agency, from time to time, pursuant to its power provided in section 64720(q) of the Act (the “**Agency Deployment Power**”) to “allocate and deploy capital and generated fees or income in

the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities and other public agencies within the Los Angeles County area, and private affordable housing developers to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, pursuant to the Act and in accordance with the applicable constitutional requirements.”

H. This Funding Agreement is the effectuation of the Agency Deployment Power.

NOW THEREFORE, IN CONSIDERATION of recitals hereof and the other mutual agreements, obligations and representations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **PART A – FUNDING TERM SHEET**

#### **I. Effective Date**

The effective date of this Funding Agreement is [date] (“Effective Date”).

#### **II. Project**

The “Project” means the [project description] that is proposed on the Property (as defined in Section III of this Funding Term Sheet).

#### **III. Property**

The “Property” is that approximately [size]-acre real property located at [address] in the City of [insert], County of Los Angeles, State of California, as is more particularly described in Exhibit A, attached hereto and incorporated herein.

#### **IV. Funding Award**

The financing products available under the NOFA are listed below. The financing products awarded by Agency to Borrower are marked YES, and the terms thereof are completed accordingly. Each financing product marked NO is inapplicable to, and not part of, this Funding Agreement. The “Funding Award” provided to Borrower hereunder collectively is the [Select applicable, delete inapplicable and brackets: Predevelopment Loan, Senior Construction Loan, Senior Permanent Loan, Subordinate B-Note Loan, Residual Receipts Loan, Light Rehab Preservation Loan, Matching Capital Grant, Operating Deficit Reserve, and Rental Subsidy], as defined and indicated below.

##### **A. Predevelopment Loan**

Did Agency award the Project a Predevelopment Loan? Check one:

YES

NO

If NO, the Funding Award does not include a Predevelopment Loan. [If NO, delete this bracket and remaining part of this subsection A; if YES, delete this bracket and fill in rest of subsection A] If YES, the terms of the Predevelopment Loan are as follows:

- Funding Source: [Taxable Bond]
- Amount: \$[insert] (“Predevelopment Loan”)
- Interest Rate: 3% compounding interest (“Predevelopment Loan Interest Rate”)
- Method of Disbursal: [insert].
- Maturity Date: The “Predevelopment Loan Maturity Date” is the earlier of: (i) 36 months from the date that the Predevelopment Loan proceeds are disbursed; or (ii) the close of the Project’s acquisition/construction financing. The Predevelopment Loan’s principal and accrued interest shall be repaid on or before the Predevelopment Loan Maturity Date.
- Repayment Terms: [insert].
- Funding Award Documents: In addition to any other documents specified, the “Funding Award Documents” include the Predevelopment Loan Note and the Predevelopment Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Predevelopment Loan may only be used for [insert].
- Compliance Monitoring Fee: \$[insert]. Until the Predevelopment Loan is repaid, Borrower shall pay agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**B. Senior Construction Loan**

Did Agency award the Project a Senior Construction Loan? Check one:

- YES       NO

If NO, the Funding Award does not include a Senior Construction Loan. [If NO, delete this bracket and remaining part of this subsection A; if YES, delete this bracket and fill in rest of subsection A] If YES, the terms of the Senior Construction Loan are as follows:

- Funding Source: [Taxable Bond]
- Amount: \$ [insert] (“Senior Construction Loan”)
- Interest Rate: [insert] (“Senior Construction Loan Interest Rate”)
- Method of Disbursal: [insert].
- Maturity Date: The “Senior Construction Loan Maturity Date” is [insert]. The Senior Construction Loan’s principal and interest shall be repaid on or before the Senior Construction Loan Maturity Date.
- Repayment Terms: [insert].
- Funding Award Documents: In addition to any other documents specified, the “Funding Award Documents” include the Senior Construction Loan Note and the Senior Construction Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Senior Construction Loan may only be used for [insert].
- Compliance Monitoring Fee: Until the Senior Construction Loan is repaid, Borrower shall pay Agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**C. Senior Permanent Loan**

Did Agency award the Project a Senior Permanent Loan? Check one:

- YES       NO

If NO, the Funding Award does not include a Senior Permanent Loan. [If NO, delete this bracket and remaining part of this subsection C; if YES, delete this bracket and fill in rest of subsection C] If YES, the terms of the Senior Permanent Loan are as follows:

- Funding Source: [Tax-Exempt Bond OR Taxable Bond]
- Amount: \$[insert] (“Senior Permanent Loan”)
- Interest Rate: [insert] (“Senior Permanent Loan Interest Rate”)
- Method of Disbursal: [insert]

- Maturity Date: The “**Senior Permanent Loan Maturity Date**” is [insert]. The Senior Permanent Loan’s principal and accrued interest shall be repaid on or before the Senior Permanent Loan Maturity Date.
- Repayment Terms: [insert].
- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Senior Permanent Loan Note and the Senior Permanent Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Senior Permanent Loan may only be used for [insert].
- Compliance Monitoring Fee: Until the Senior Permanent Loan is repaid, Borrower shall pay agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**D. Subordinate B-Note Loan**

Did Agency award the Project a Subordinate B-Note Loan? Check one:

- YES       NO

If NO, the Funding Award does not include a Subordinate B-Note Loan. [If NO, delete this bracket and remaining part of this subsection D; if YES, delete this bracket and fill in rest of subsection D] If YES, the terms of the Subordinate B-Note Loan are as follows:

- Funding Source: [Tax-Exempt Bond OR Taxable Bond]
- Amount: \$[insert] (“**Subordinate B-Note Loan**”)
- Interest Rate: 3% simple interest (“**Subordinate B-Note Interest Rate**”)
- Method of Disbursal: [insert]
- Maturity Date: The “**Subordinate B-Note Loan Maturity Date**” is [insert]. The Subordinate B-Note Loan’s principal and accrued interest shall be repaid on or before the Subordinate B-Note Loan Maturity Date.
- Repayment Terms: Commencing on [date], and on [date] of each year thereafter until the Subordinate B-Note Loan Maturity Date, Borrower shall make a loan payment in an amount equal to the Agency Share of Net Income (as defined in the Standard Terms and Conditions) for the prior fiscal year (each such

payment, an “**Annual Agency Loan Payment**”). Agency shall apply each Annual Agency Loan Payments as follows: (1) first, to accrued interest, (2) second, to principal on the Subordinate B-Note Loan.

- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Subordinate B-Note Loan Note and the Subordinate B-Note Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Subordinate B-Note Loan may only be used for [insert].
- Compliance Monitoring Fee: Until the Subordinate B-Note Loan is repaid, Borrower shall pay Agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**E. Residual Receipts Loan (LIHTC)**

Did Agency award the Project a Residual Receipts Loan? Check one:

- YES                       NO

If NO, the Funding Award does not include a Residual Receipts Loan. [If NO, delete this bracket and remaining part of this subsection E; if YES, delete this bracket and fill in rest of subsection E] If YES, the terms of the Residual Receipts Loan are as follows:

- Funding Source: [Taxable Bond]
- Amount: \$[insert] (“**Residual Receipts Loan**”)
- Interest Rate: 3% simple interest (“**Residual Receipts Loan Interest Rate**”)
- Method of Disbursal: [insert]
- Maturity Date: The “**Residual Receipts Note Loan Maturity Date**” is [insert]. The Residual Receipts Loan’s principal and accrued interest shall be repaid on or before the Residual Receipts Note Loan Maturity Date.
- Repayment Terms: While the Residual Receipts Loan remains outstanding, commencing on [date], and on [date] of each year thereafter, Borrower shall make a loan payment in an amount equal to the Agency Share of Net Income (as defined in the Standard Terms and Conditions) for the prior fiscal year (each such payment, an “**Annual Agency Loan Payment**”). Agency shall apply all Annual Agency Loan Payments as follows: (1) first, to accrued interest, (2) second, to principal on the Residual Receipts Loan.

- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Residual Receipts Loan Note and the Residual Receipts Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Residual Receipts Loan may only be used for [insert].
- Compliance Monitoring Fee: Until the Residual Receipts Loan is repaid, Borrower shall pay Agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**F. Light Rehab Preservation Loan**

Did Agency award the Project a Light Rehab Preservation Loan? Check one:

- YES       NO

If NO, the Funding Award does not include a Light Rehab Preservation Loan. [If NO, delete this bracket and remaining part of this subsection F; if YES, delete this bracket and fill in rest of subsection F] If YES, the terms of the Light Rehab Preservation Loan are as follows:

- Funding Source: [Taxable Bond]
- Amount: \$[insert] (“**Light Rehab Preservation Loan**”)
- Interest Rate: [insert] (“**Light Rehab Preservation Loan Interest Rate**”)
- Method of Disbursal: [insert]
- Maturity Date: The “**Light Rehab Preservation Loan Maturity Date**” is [insert].
- Repayment Terms: [insert].
- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Light Rehab Preservation Loan Note and the Light Rehab Preservation Loan Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Light Rehab Preservation Loan may only be used for [insert].

- Compliance Monitoring Fee: Until the Light Rehab Preservation Loan is repaid, Borrower shall pay Agency an annual compliance monitoring fee of \$[insert] each year. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

## G. Matching Capital Grant

Did Agency award the Project a Matching Capital Grant? Check one:

- YES       NO

If NO, the Funding Award does not include a Matching Capital Grant. [If NO, delete this bracket and remaining part of this subsection G; if YES, delete this bracket and fill in rest of subsection G] If YES, the terms of the Matching Capital Grant are as follows:

- Funding Source: [Tax Exempt Bond]
- Amount: \$[insert] (“**Matching Capital Grant**”)
- Interest Rate: 3% simple interest (“**Matching Capital Grant Interest Rate**”)
- Method of Disbursal: [insert]
- Maturity Date; Forgiveness Conditions: The “**Matching Capital Grant Maturity Date**” is [insert]. Notwithstanding the foregoing, the Matching Capital Grant’s principal and accrued interest shall be forgiven on the Matching Capital Grant Maturity Date if all of the following conditions are satisfied, to the satisfaction of Agency: [insert] (“**Matching Capital Grant Forgiveness Conditions**”).
- Repayment Terms: [insert].
- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Matching Capital Grant Note and the Matching Capital Grant Deed of Trust, as those terms are defined in the Standard Terms and Conditions.
- Use of Funds: The proceeds of the Matching Capital Grant may only be used for [insert].
- Compliance Monitoring Fee: Until the Matching Capital Grant Maturity Date, Borrower shall pay Agency an annual compliance monitoring fee of \$[insert]. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

## H. Operating Deficit Reserve

Did Agency award the Project an Operating Deficit Reserve? Check one:

- YES                       NO

If NO, the Funding Award does not include an Operating Deficit Reserve. [If NO, delete this bracket and remaining part of this subsection H; if YES, delete this bracket and fill in rest of subsection H] If YES, the terms of the Operating Deficit Reserve award are as follows:

- Funding Source: [insert]
- Amount, Form of Assistance, Method of Disbursal: The “**Operating Deficit Reserve**” provided hereunder is a maximum amount of \$[insert] per calendar years. Operating Deficit Reserve funds will be held by Agency or a designated trustee in a segregated interest-bearing account (with interest accruing to Agency). Draws require Borrower certification of deficit, evidence of primary reserve depletion, and Agency approval.
- Term: [insert] years, commencing on [date] (“**Operating Deficit Reserve Term**”).
- Repayment Terms: N/A.
- Use of Funds: Operating Deficit Reserve funds may only be used for eligible Project operating purposes, as determined by Agency, including operating shortfalls, debt service, or unanticipated operating expenses after depletion of primary reserves.
- Compliance Monitoring Fee: For the duration of the Operating Deficit Reserve Term, Borrower shall pay Agency an annual compliance monitoring fee of \$[3,000.00]. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet. In addition to the foregoing, Borrower shall also pay \$[1,500.00] for every request to draw Operating Deficit Reserve funds.

## I. Rental Subsidy

Did Agency award a Rental Subsidy to the Project?

- YES                       NO

If NO, the Funding Award does not include a Rental Subsidy. [If NO, delete this bracket and remaining part of this subsection I; if YES, delete this bracket and fill in rest of subsection I] If YES, the terms of the Rental Subsidy award are as follows:

- Funding Source: The Rental Subsidy is financed by Agency appropriations. No portion of the Rental Subsidy is funded with bond proceeds.
- Rental Subsidy Agreement: In addition to this Funding Agreement, the terms and conditions governing the Rental Subsidy award are set forth in in the Rental Subsidy Agreement, attached hereto as Exhibit G.
- Funding Award Documents: In addition to any other documents specified, the “**Funding Award Documents**” include the Rental Subsidy Agreement.
- Use of Funds: Rental Subsidy funds may only be used for the purposes set forth in the Rental Subsidy Agreement.
- Compliance Monitoring Fee: For the duration of the Rental Subsidy award, Borrower shall pay Agency an annual monitoring fee of \$[insert]. This fee shall be included in the total annual compliance monitoring fee paid by Borrower, as specified in Section VII of this Funding Term Sheet.

**V. Funding Award Documents**

The “**Funding Award Documents**” collectively mean this Funding Agreement, the Regulatory Agreement, and [insert].

**VI. Agency Funded Affordable Units; Affordability Period**

In consideration of the Funding Award, the Project’s units shall be deed-restricted in accordance with the following requirements:

AMI	Studio	1-BR	2-BR	3-BR	4-BR	Total	Total %
10%							
20%							
30%							
40%							
50%							
60%							
70%							
80%							
90%							
100%							
110%							
120%							
Market-Rate							
<b>Total</b>							

<b>Total Deed Restricted Units</b>	
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<b>Affordability Period (years):</b>	
<b>Target Population:</b>	

The above deed restricted units are each individually an “Agency Funded Affordable Unit” and collectively the “Agency Funded Affordable Units.” The Agency Funded Affordable Units shall be memorialized in a recorded Regulatory Agreement, the form of which is attached hereto as Exhibit D. **[Delete the following if Funding Award does not include a Rental Subsidy: As set forth in the Regulatory Agreement, if the Funding Award includes a Rental Subsidy and the Rental Subsidy is not renewed or cancelled due to a lack of available funds, any Agency Funded Affordable Units that are required to be rented to households earning 30% of AMI or less (as a condition for receiving the Rental Subsidy) may be rented to households earning 80% of AMI or less.]**

**VII. Consideration to Agency**

In consideration of the Funding Award, Borrower will pay Agency a one-time deposit totaling \$[insert], on or before [date]. Additionally, commencing on [date] and on or before [date] each year thereafter, Borrower shall pay Agency an annual compliance monitoring fee totaling \$[insert], as calculated below:

<b>Financing Product</b>	<b>Annual Compliance Monitoring Fee</b>
[insert]	\$(insert)
[insert]	\$(insert)
[insert]	\$(insert)
<b>Total</b>	\$(insert)

**PART B - STANDARD TERMS AND CONDITIONS**

**ARTICLE 1 DEFINITIONS**

**Section 1.1 Definitions.**

The following capitalized terms have the meanings set forth in this Section 1.1 wherever used in this Funding Agreement, unless otherwise provided:

- a. “Act” has the meaning provided in Recital A.
- b. “Additional Project Financing” means the loans acquired by Borrower and approved by Agency for the purpose of financing the Project, in addition to the Funding Award.
- c. “Agency” has the meaning provided in the preamble above.
- d. “Agency Funded Affordable Units” has the meaning provided in the Funding Term Sheet.

- e. **“Agency Share of Net Income ”** means [insert]% of Net Income.
- f. [The following to be confirmed, revised, or deleted as applicable: **“Annual Operating Expenses”** means for each fiscal year, the costs reasonably and actually incurred for operation and maintenance of the Project, which shall generally include: (i) Property taxes and assessments imposed on the Project; (ii) debt service due on a non-optional basis (excluding debt service due from net income or surplus cash of the Project) on the Additional Project Financing; (iii) on-site service provider fees for tenant social services, provided Agency has approved, in writing, the plan and budget for such services before such services begin; (iv) property management fees and reimbursements, on-site property management office expenses, and salaries of property management and maintenance personnel, not to exceed amounts that are standard in the industry and which are pursuant to a management contract approved by Agency; (v) fees for accounting, audit, and legal services incurred by Borrower in the asset management of the Project, not to exceed amounts that are standard in the industry; (vi) premiums for insurance required to satisfy the requirements of this Funding Agreement or the Additional Project Financing; (vii) utility services not paid for directly by tenants, including water, sewer, and trash collection; (viii) maintenance and repair expenses and services; (ix) any annual license or certificate of occupancy fees required for operation of the Project; (x) security services; (xi) advertising and marketing; (xii) extraordinary operating costs specifically approved in writing by Agency; (xiii) payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses approved in writing by Agency and not listed above; (xiv) and other ordinary and reasonable operating expenses approved in writing by Agency and not listed above. Annual Operating Expenses do not include the following: depreciation, amortization, depletion or other non-cash expenses, initial deposits to capitalize a reserve account, any amount expended from a reserve account, and any capital cost associated with the Project.]
- g. **“Borrower”** has the meaning provided in the preamble above.
- h. **“Borrower’s Organizational Documents”** means those certain [Articles of Organization] of Borrower filed on [date] with the [insert], and all modifications and amendments thereto as of the date hereof.
- i. **“Certification of Non-Foreign Status”** means an affidavit, signed under penalty of perjury by an authorized representative of Borrower, stating: (a) that Borrower is not a “foreign corporation”, “foreign partnership”, “foreign trust”, or “foreign estate”, as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder, (b) Borrower’s U.S. employer identification number, and (c) the address of Borrower’s principal place of business. Such affidavit shall be consistent with the requirements of the regulations promulgated under section 1445 of the Internal Revenue Code, and shall otherwise be in form and substance acceptable to Agency.
- j. **“Closing Date”** means the date on which [the last Deed of Trust in the Funding Award Documents is recorded in the Official Records].
- k. **“Consortium”** has the meaning provided in the preamble above.

- l. **“Collateral”** means all collateral described in the Funding Award Documents, including, but not limited to, the Property.
- m. **“County”** means Los Angeles County, California.
- n. **“Event of Default”** has the meaning set forth in Section 8.1.
- o. **“Environmental Claim”** means any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements and expenses, including reasonable attorney’s fees and costs and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law or Hazardous Substance Discharge.
- p. **“Environmental Law”** means any Federal or California law regarding any of the following at, in, under, above, or upon the Property: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, remediation, control, disposal, generation, storage, release, discharge, transportation, use of, or liability or standards of conduct concerning, Hazardous Substances, as now or may, at any later time, be in effect.
- q. **“Force Majeure”** has the meaning provided in Section 8.3.
- r. **“Funding Agreement”** means this Los Angeles County Affordable Housing Solutions Agency Project Funding Agreement (PPO NOFA #1).
- s. **“Funding Award”** has the meaning provided in Section IV of the Funding Term Sheet.
- t. **“Funding Award Documents”** has the meaning provided in Section V of the Funding Term Sheet.
- u. **“Funding Term Sheet”** means Part A of this Funding Agreement.
- v. **“Governmental Authority”** means any arbitrator, other private adjudicator, court, government or governmental authority (federal, state, local, or foreign).
- w. **[The following to be confirmed, revised, or deleted as applicable: “Gross Revenue”** means for each fiscal year, all revenue, income, receipts, and other consideration actually received from the operation and leasing of the Project. Gross Revenue includes, but is not limited to: (i) all rents, fees and charges paid by tenants; (ii) Section 8 payments or other rental subsidy payments received for the dwelling units; (iii) deposits forfeited by tenants; (iv) all cancellation fees; (v) price index adjustments and any other rental adjustments to leases or rental agreements; (vi) net proceeds from vending and laundry room machines; (vii) the proceeds of business interruption or similar insurance; (viii) the proceeds of casualty insurance not used to rebuild the Project; and (ix) condemnation awards for a taking of part or all of the Project for a temporary period. Gross Revenue does not include tenants' security deposits, loan proceeds, capital contributions or similar advances].

x. **“Hazardous Substance”** means any flammable substances, explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, explosives, petroleum, petroleum products and any “hazardous” or “toxic” material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a “hazardous substance” under section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) substances designated as “hazardous substances” pursuant to 33 U.S.C. § 1321; (c) defined as a “hazardous waste” under section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., as amended; (d) defined as a “hazardous substance” or “hazardous waste” under section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, et seq., or any so-called “superfund” or “superlien” law; (e) defined as a “pollutant” or “contaminant” under 42 U.S.C. § 9601(33); (f) defined as “hazardous waste” under 40 C.F.R. Part 260; (g) defined as a “hazardous chemical” under 29 C.F.R. Part 1910; (h) any matter within the definition of “hazardous substance” set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act (“TSCA”) [15 U.S.C. sections 2601, et seq.]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, et seq.; (k) those substances listed in the United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) any matter, waste or substances defined as “hazardous waste” in section 25117 of the California Health and Safety Code; (n) any substance defined as a “hazardous substance” in section 25316 of the California Health and Safety Code; (o) any matter, waste, or substance that is subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) other substances, materials, and wastes that are, or become, regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to said Law, including manure, asbestos, polychlorinated biphenyl, flammable explosives and radioactive material. Notwithstanding the foregoing, “Hazardous Substances” shall not include such products in quantities as are customarily used in the construction, maintenance, development or management of residential developments or associated buildings and grounds, or typically used in residential activities in a manner generally used in other comparable residential developments, or substances commonly ingested by a significant population living within the Project including, without limitation, alcohol, aspirin, tobacco and saccharine.

y. **“Hazardous Substance Discharge”** means any deposit, discharge, generation, release, or spill of a Hazardous Substance that occurs at on, under, into or from the Property, or during transportation of any Hazardous Substance to or from the Property, or that arises at any time from the construction, use or operation of the Project or any activities conducted at on, under or from the Property, whether or not caused by a Party.

z. **“Light Rehab Preservation Loan”** has the meaning provided in Subsection F of Section IV of Part A. [~~Delete this definition and the following four definitions if the Funding Award does not include a Light Rehab Preservation Loan~~]

aa. “**Light Rehab Preservation Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Light Rehab Preservation Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Light Rehab Preservation Loan.

bb. “**Light Rehab Preservation Loan Interest Rate**” has the meaning provided in Subsection F of Section IV of Part A.

cc. “**Light Rehab Preservation Loan Maturity Date**” has the meaning provided in Subsection F of Section IV of Part A.

dd. “**Light Rehab Preservation Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Light Rehab Preservation Loan Note is secured by the Light Rehab Preservation Loan Deed of Trust and evidences Borrower’s obligation to repay the Light Rehab Preservation Loan.

ee. “**Matching Capital Grant**” has the meaning provided in Subsection G of Section IV of Part A. [**Delete this definition and the following five definitions if the Funding Award does not include a Matching Capital Grant**]

ff. “**Matching Capital Grant Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Matching Capital Grant Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Matching Capital Grant. The Matching Capital Grant shall be due and payable on the Matching Capital Grant Maturity Date unless the Matching Capital Grant Forgiveness Conditions are satisfied.

gg. “**Matching Capital Grant Forgiveness Conditions**” has the meaning provided in Subsection G of Section IV of Part A.

hh. “**Matching Capital Grant Interest Rate**” has the meaning provided in Subsection G of Section IV of Part A.

ii. “**Matching Capital Grant Maturity Date**” has the meaning provided in Subsection G of Section IV of Part A.

jj. “**Matching Capital Grant Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Matching Capital Grant Note is secured by the Matching Capital Grant Deed of Trust and evidences Borrower’s obligation to repay the Matching Capital Grant, which shall be due and payable on the Matching Capital Grant Maturity Date unless the Matching Capital Grant Forgiveness Conditions are satisfied.

kk. “**Measure A**” has the meaning provided in Recital A.

ll. “**Net Income**” means for each fiscal year, the amount by which Gross Revenue exceeds Annual Operating Expenses.

mm. “**NOFA**” means the Notice of Funding Availability #1 for Affordable Housing Production and Preservation released by the Agency on December 16, 2025.

nn. “**Official Records**” means the official records of Los Angeles County, California.

oo. “**Operating Deficit Reserve**” has the meaning provided in Subsection H of Section IV of Part A. [Delete this definition if the Funding Award does not include an Operating Deficit Reserve]

pp. “**Party**” means Agency, Borrower, or Consortium, individually.

qq. “**Parties**” means Agency, Borrower, and Consortium, collectively.

rr. “**Person**” means any natural person, any unincorporated association, any corporation, any partnership, any joint venture, any limited liability company, any trust, any other legal entity, or any Governmental Authority.

ss. “**Predevelopment Loan**” has the meaning provided in Subsection A of Section IV of Part A. [Delete this definition and the four following definitions if the Funding Award does not include a Predevelopment Loan]

tt. “**Predevelopment Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Predevelopment Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Predevelopment Loan.

uu. “**Predevelopment Loan Interest Rate**” has the meaning in Subsection A of Section IV of Part A.

vv. “**Predevelopment Loan Maturity Date**” has the meaning provided in Subsection A of Section IV of Part A.

ww. “**Predevelopment Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Predevelopment Loan Note is secured by the Predevelopment Loan Deed of Trust and evidences Borrower’s obligation to repay the Predevelopment Loan.

xx. “**Preliminary Title Report**” means that certain preliminary title report dated as [date], Order No. [insert] and issued by the Title Company covering the Property and showing all exceptions to title and accompanied by legible copies of all such recorded exceptions.

yy. “**Project**” has the meaning provided in Section II of the Funding Term Sheet.

zz. “**Property**” has the meaning set forth in Section III of the Funding Term Sheet and Exhibit A.

aaa. “**Public Entities**” means Agency and Consortium, collectively.

bbb. “**Regulatory Agreement**” means that certain Regulatory Agreement and Declaration of Restrictive Covenants, Conditions, and Restrictions Restricting Use of Property for Affordable Housing executed by Borrower and Agency pursuant to this Funding Agreement and to be recorded in the Official Records, in substantially the form attached as Exhibit D for the purpose of ensuring that the Project is operated as an affordable multifamily residential development in accordance with this Funding Agreement.

ccc. “**Rental Subsidy**” has the meaning provided in Subsection I of Section IV of the Funding Term Sheet. [Delete this definition and the following definition if the Funding Award does not include a Rental Subsidy]

ddd. “**Rental Subsidy Agreement**” means the Rental Subsidy Agreement attached hereto as Exhibit G.

eee. “**Residual Receipts Loan**” has the meaning provided in Subsection E of Section IV of Part A. [Delete this definition and the four following definitions if the Funding Award does not include a Residual Receipts Loan]

fff. “**Residual Receipts Loan Interest Rate**” has the meaning provided in Subsection E of Section IV of Part A.

ggg. “**Residual Receipts Loan Maturity Date**” has the meaning provided in Subsection E of Section IV of Part A.

hhh. “**Residual Receipts Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Residual Receipts Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Residual Receipts Loan.

iii. “**Residual Receipts Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Residual Receipts Loan Note is secured by the Residual Receipts Loan Deed of Trust and evidences Borrower’s obligation to repay the Residual Receipts Loan.

jjj. “**Senior Construction Loan**” has the meaning provided in Subsection B of Section IV of Part A. [Delete this definition and the four following definitions if the Funding Award does not include a Senior Construction Loan]

kkk. “**Senior Construction Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Senior Construction Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Senior Construction Loan.

lll. “**Senior Construction Loan Interest Rate**” has the meaning provided in Subsection B of Part A.

mmm. “**Senior Construction Loan Maturity Date**” has the meaning provided in Subsection B of Part A.

nnn. “**Senior Construction Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Senior Construction Loan Note is secured by the Senior Construction Loan Deed of Trust and evidences Borrower’s obligation to repay the Senior Construction Loan.

ooo. “**Senior Permanent Loan**” has the meaning provided in Subsection C of Section IV of Part A. [**Delete this definition and the four following definitions if the Funding Award does not include a Senior Permanent Loan**]

ppp. “**Senior Permanent Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Senior Permanent Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Senior Permanent Loan.

qqq. “**Senior Permanent Loan Interest Rate**” has the meaning provided in Subsection C of Section IV of Part A.

rrr. “**Senior Permanent Loan Maturity Date**” has the meaning provided in Subsection C of Section IV of Part A.

sss. “**Senior Permanent Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Senior Permanent Loan Note is secured by the Senior Permanent Loan Deed of Trust and evidences Borrower’s obligation to repay the Senior Permanent Loan.

ttt. “**Subordinate B-Note Loan**” has the meaning provided in Subsection D of Section IV of Part A. [**Delete this definition and the four following definitions if the Funding Award does not include a Subordinate B-Note Loan**]

uuu. “**Subordinate B-Note Loan Interest Rate**” has the meaning provided in Subsection D of Section IV of Part A.

vvv. “**Subordinate B-Note Loan Deed of Trust**” means Agency’s form Deed of Trust, Assignment of Rents, and Security Agreement (attached hereto as Exhibit C), filled out by Agency and executed by Borrower. The Subordinate B-Note Loan Deed of Trust is for the benefit of Agency, as beneficiary, and will encumber the Property and secure repayment of the Subordinate B-Note Loan.

www. “**Subordinate B-Note Loan Maturity Date**” has the meaning provided in Subsection D of Section IV of Part A.

xxx. “**Subordinate B-Note Loan Note**” means Agency’s form Promissory Note (attached hereto as Exhibit B), of even date herewith, filled-out by Agency and executed by Borrower in favor of Agency. The Subordinate B-Note Loan Note is secured by the Subordinate B-Note Loan Deed of Trust and evidences Borrower’s obligation to repay the Subordinate B-Note Loan.

yyy. “**Taxable Bonds**” means the Los Angeles Affordable Housing Solutions Consortium (Los Angeles County Affordable Housing Solutions Agency) Sales Tax Revenue Bonds, Series 2026A-3 (Federally Taxable) (Social Bonds) and any other federally taxable bonds issued by the Consortium consistent with the purposes of the Act.

zzz. “**Tax-Exempt Bonds**” means the Los Angeles Affordable Housing Solutions Consortium (Los Angeles County Affordable Housing Solutions Agency) Sales Tax Revenue Bonds, Series 2026A-1 (Tax-Exempt) (Social Bonds) and the Los Angeles Affordable Housing Solutions Consortium (Los Angeles County Affordable Housing Solutions Agency) Sales Tax Revenue Bonds, Series 2026A-2 (Tax-Exempt) (Social Bonds) and any other bonds, the interest of which is not subject to federal taxation, issued by the Consortium consistent with the purposes of the Act.

aaaa. “**Title Company**” means the [specify] Title Company.

bbbb. [“Title Insurance Policy” means a title insurance policy in the form of an American Land Title Association Loan Policy-2021 extended coverage (without revision, modification or amendment) issued by [insert], with such endorsements, with a liability equal to the Funding Award, in form and substance satisfactory to Agency, subject only to those exceptions as Agency may require.]

cccc. “**Wage Action**” means any of the following: (a) any determination by the California Department of Industrial Relations that prevailing wage rates should have been paid, but were not; (b) any determination by the California Department of Industrial Relations that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising from any failure to comply with the Federal Davis-Bacon Act (codified as 40 U.S.C. §§ 3141 *et seq.*) or California Labor Code sections 1720 through 1781, as amended from time to time, regarding prevailing wages, including maintaining certified payroll records; (d) any administrative or legal action or proceeding arising from any failure to comply with the Act’s or Measure A’s construction labor requirements, as set forth in Government Code section 64720.5 and section 28 of Measure A, and attached hereto as Exhibit F; or (e) any administrative or legal action or proceeding to recover wage amounts at law or in equity.

## ARTICLE 2 FUNDING PROVISIONS

**Section 2.1 Award of Funding.** Agency has awarded the Funding Award to Borrower, as set forth in the Funding Term Sheet. Unless expressly waived by Agency in writing, Agency’s decision to award the Funding Award to Borrower is contingent on Borrower accepting each and every component of the Funding Award. Agency’s decision to waive any particular category or amount of funding under the Funding Award shall be at Agency’s sole and absolute discretion. Among other things, Agency may consider whether Borrower has demonstrated that it has acquired other funding sufficient to complete the Project as proposed.

**Section 2.2 Basis of Award.** Agency has awarded the Funding Award to Borrower based on Borrower's application in response to the NOFA, including information provided during the course of underwriting and financial review. The Project as proposed, and all information submitted to Agency, is a material basis for Agency's decision to make the Funding Award to Borrower. Any material deviations or misrepresentations shall be a basis for Agency to cancel the Funding Award and obtain a refund of all consideration paid thereunder.

**Section 2.3 Bond Contingency.** Borrower accepts and acknowledges that the purpose of the NOFA is to utilize the revenues realized from the issuance of bonds in order to fund the projects receiving funding awards and that Consortium has not yet issued bonds at the time of award. The provision of the Funding Award under this Funding Agreement is therefore wholly conditional upon Consortium issuing bonds. Borrower agrees and acknowledges that it cannot compel Agency or Consortium to issue bonds and neither of the Public Entities will have an obligation to provide any funding under this Funding Agreement in the absence of a bond issuance. If the bond issuance is lower than anticipated, Agency may adjust the amount of the Funding Award to Borrower in Agency's sole and absolute discretion.

**Section 2.4 Validation.** The Public Entities, in their respective discretion, may elect to validate the bonds, either actively or passively, in which case the provision of the Funding Award will not occur until there is either a final judgment or the period to file an action to validate the bonds has expired.

**Section 2.5 Time of the Essence.** In considering of the Funding Award provided hereunder, Agency has considered the readiness of the Project to proceed in an expeditious manner. If the Project fails to reach the Closing Date by [date], then the Public Entities will have no further obligations under this Funding Agreement unless they expressly agree in writing to an extension of the Closing Date.

### ARTICLE 3 FUNDING AWARD SPECIFIC PROVISIONS

**Section 3.1 Predevelopment Loan.** If the Funding Award includes a Predevelopment Loan, all of the following apply: [Replace entire Section 3.1 with "Reserved" if the Funding Award does not include a Predevelopment Loan]

a. Loan of Funds. Agency hereby agrees to make a Predevelopment Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Predevelopment Loan's principal and accrued interest shall be due and payable in full on or before the Predevelopment Loan Maturity Date.

c. Interest Rate. The Predevelopment Loan shall bear interest at the Predevelopment Loan Interest Rate.

d. Evidence of Loan; Repayment. The Predevelopment Loan shall be evidenced by, and repaid in accordance with, the Predevelopment Loan Note, which shall be

secured by the Predevelopment Loan Deed of Trust. Agency and Borrower shall execute the Predevelopment Loan Note, the Predevelopment Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Predevelopment Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Predevelopment Loan Deed of Trust's priority.

e. Acceleration. The Predevelopment Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Predevelopment Loan Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Predevelopment Loan may only be used for the purposes specified in the Funding Term Sheet.

**Section 3.2 Senior Construction Loan.** If the Funding Award includes a Senior Construction Loan, all of the following apply: [Replace entire Section 3.2 with "Reserved" if the Funding Award does not include a Senior Construction Loan]

a. Loan of Funds. Agency hereby agrees to make a Senior Construction Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Senior Construction Loan's principal and accrued interest shall be due and payable in full on or before the Senior Construction Loan Maturity Date.

c. Interest Rate. The Senior Construction Loan shall bear interest at the Senior Construction Loan Interest Rate.

d. Evidence of Loan; Repayment. The Senior Construction Loan shall be evidenced by, and repaid in accordance with, the Senior Construction Loan Note, which shall be secured by the Senior Construction Loan Deed of Trust. Agency and Borrower shall execute the Senior Construction Loan Note, the Senior Construction Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Senior Construction Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Senior Construction Loan Deed of Trust's priority.

e. Acceleration. The Senior Construction Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Senior Construction Loan Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Senior Construction Loan may only be used for the purposes set forth in the Funding Term Sheet.

**Section 3.3 Senior Permanent Loan.** If the Funding Award includes a Senior Permanent Loan, all of the following apply: [Replace entire Section 3.3 with "Reserved" if the Funding Award does not include a Senior Permanent Loan]

a. Loan of Funds. Agency hereby agrees to make a Senior Permanent Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Senior Permanent Loan's principal and accrued interest shall be due and payable in full on or before the Senior Permanent Loan Maturity Date.

c. Interest Rate. The Senior Permanent Loan shall bear interest at the Senior Permanent Loan Interest Rate.

d. Evidence of Loan; Repayment. The Senior Permanent Loan shall be evidenced by, and repaid in accordance with, the Senior Permanent Loan Note, which shall be secured by the Senior Permanent Loan Deed of Trust. Agency and Borrower shall execute the Senior Permanent Loan Note, the Senior Permanent Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Senior Permanent Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Senior Permanent Loan Deed of Trust's priority.

e. Acceleration. The Senior Permanent Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Senior Permanent Loan Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Senior Permanent Loan may only be used for the purposes set forth in the Funding Term Sheet.

**Section 3.4 Subordinate B-Note Loan.** If the Funding Award includes a Subordinate B-Note Loan, all of the following apply: [Replace entire Section 3.4 with “Reserved” if the Funding Award does not include a Subordinate B-Note Loan]

a. Loan of Funds. Agency hereby agrees to make a Subordinate B-Note Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Subordinate B-Note Loan’s principal and accrued interest shall be due and payable in full on or before the Subordinate B-Note Loan Maturity Date.

c. Interest Rate. The Subordinate B-Note Loan shall bear interest at the Subordinate B-Note Loan Interest Rate.

d. Evidence of Loan; Repayment. The Subordinate B-Note Loan shall be evidenced by, and repaid in accordance with, the Subordinate B-Note Loan Note, which shall be secured by the Subordinate B-Note Loan Deed of Trust. Agency and Borrower shall execute the Subordinate B-Loan Note, the Subordinate B-Note Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Subordinate B-Note Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement’s senior position and specify the Subordinate B-Note Loan Deed of Trust’s priority.

e. Acceleration. The Subordinate B-Note Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Subordinate B-Note Loan Note, at Agency’s sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Subordinate B-Note Loan may only be used for the purposes set forth in the Funding Term Sheet.

**Section 3.5 Residual Receipts Loan.** If the Funding Award includes a Residual Receipts Loan, all of the following apply: [Replace entire Section 3.5 with “Reserved” if the Funding Award does not include a Residual Receipts Loan]

a. Loan of Funds. Agency hereby agrees to make a Residual Receipts Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Residual Receipts Loan’s principal and accrued interest shall be due and payable in full on or before the Residual Receipts Loan Maturity Date.

c. Interest Rate. The Residual Receipts Loan shall bear interest at the Residual Receipts Loan Interest Rate.

d. Evidence of Loan; Repayment. The Residual Receipts Loan shall be evidenced by, and repaid in accordance with, the Residual Receipts Loan Note, which shall be secured by the Residual Receipts Loan Deed of Trust. Agency and Borrower shall execute the Residual Receipts Loan Note, the Residual Receipts Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Residual Receipts Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Residual Receipts Loan Deed of Trust's priority.

e. Acceleration. The Residual Receipts Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Residual Receipts Loan Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Residual Receipts Loan may only be used for the purposes set forth in the Funding Term Sheet.

**Section 3.6 Light Rehab Preservation Loan.** If the Funding Award includes a Light Rehabilitation Preservation Loan, all of the following apply: [Replace entire Section 3.6 with "Reserved" if the Funding Award does not include a Light Rehab Preservation Loan]

a. Loan of Funds. Agency hereby agrees to make a Light Rehab Preservation Loan to Borrower in the total amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Repayment Terms; Maturity Date. The Light Rehab Preservation Loan's principal and accrued interest shall be due and payable in full on or before the Residual Receipts Loan Maturity Date.

c. Interest Rate. The Light Rehab Preservation Loan shall bear interest at the Light Rehab Preservation Loan Interest Rate.

d. Evidence of Loan; Repayment. The Light Rehab Preservation Loan shall be evidenced by, and repaid in accordance with, the Light Rehab Preservation Loan Note, which shall be secured by the Light Rehab Preservation Loan Deed of Trust. Agency and Borrower shall execute the Light Rehab Preservation Loan Note, the Light Rehab Preservation Loan Deed of Trust, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Light Rehab Preservation Loan Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to

by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Light Rehab Preservation Loan Deed of Trust's priority.

e. Acceleration. The Light Rehab Preservation Loan Note shall provide for the acceleration of the unpaid principal and interest due under the Light Rehab Preservation Loan Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

g. Use of Funds. The Light Rehab Preservation Loan may only be used for the purposes set forth in the Funding Term Sheet.

**Section 3.7 Matching Capital Grant.** If the Funding Award includes a Matching Capital Grant, all of the following apply: [Replace entire Section 3.7 with "Reserved" if the Funding Award does not include a Matching Capital Grant]

a. Grant. Agency hereby agrees to make provide Borrower with a Matching Capital Grant, in the amount set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement.

b. Interest. The Matching Capital Grant shall bear interest at the Matching Capital Grant Interest Rate.

c. Repayment Terms, Maturity Date, and Forgiveness. The Matching Capital Grant's principal and accrued interest shall be forgiven on the Matching Capital Grant Maturity Date if, as of the Matching Capital Grant Maturity Date, Borrower has satisfied the Matching Capital Grant Forgiveness Conditions to the satisfaction of Agency. If Borrower has not satisfied the Matching Capital Grant Forgiveness Conditions to the satisfaction of Agency, the Matching Capital Grant's principal and accrued interest shall be due and payable to Agency on the Matching Capital Grant Maturity Date.

d. Evidence of Grant. The Matching Capital Grant shall be evidenced by, and repaid in accordance with the Matching Capital Grant Note, which shall be secured by the Matching Capital Grant Deed of Trust. Agency and Borrower shall execute the Matching Capital Grant Note, the Residual Receipts Note, and the Regulatory Agreement concurrently with the execution of this Funding Agreement and the Matching Capital Grant Deed of Trust and the Regulatory Agreement shall thereafter be recorded against the Property in the Official Records. Except as otherwise agreed to by Agency in writing, the Regulatory Agreement shall be recorded in a first priority lien position, senior to all other deeds of trust or other equivalent instruments. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's senior position and specify the Matching Capital Grant Deed of Trust's priority.

e. Acceleration. The Matching Capital Grant shall provide for the acceleration of the unpaid principal and interest due under the Matching Capital Grant Note, at Agency's sole discretion, so that all sums theretofore advanced shall become immediately due and payable, and Agency shall be relieved from all further obligations hereunder, upon any breach by Borrower of any of the covenants or obligations in the Funding Award Documents (which remain uncured after the expiration of any applicable notice and cure period).

f. Use of Funds. The Matching Capital Grant for the purposes set forth in the Funding Term Sheet.

**Section 3.8 Operating Deficit Reserve.** If the Funding Award includes an Operating Deficit Reserve award, then Agency hereby agrees to provide the Operating Deficit Award to Borrower in the total amount and as set forth in the Funding Term Sheet, subject to the terms and conditions of this Funding Agreement. [Replace entire Section 3.8 with "Reserved" if the Funding Award does not include an Operating Deficit Reserve]

**Section 3.9 Rental Subsidy.** If the Funding Award includes an Rental Subsidy award, then Agency hereby agrees to provide the Rental Subsidy to Borrower in the total amount and as set forth in the Funding Term Sheet and the Rental Subsidy Agreement. [Replace entire Section 3.9 with "Reserved" if the Funding Award does not include a Rental Subsidy]

#### ARTICLE 4 CONDITIONS PRECEDENT TO DISBURSEMENT

**Section 4.1 Conditions Precedent.** Agency shall disburse the Funding Award to Borrower in accordance with the Funding Term Sheet, subject to the satisfaction, or waiver by Agency, of each and all the conditions precedent described below, which are solely for the benefit of Agency, and which shall be fulfilled or waived by the time periods provided herein. Agency is not obligated to disburse any Funding Award proceeds to Borrower, nor to take any other action under this Funding Agreement, unless all of the following conditions precedent are satisfied or waived by Agency in writing:

a. Borrower's delivery to Agency of evidence satisfactory to Agency that all other sources of funding required for the development and completion of the Project have been fully committed and secured.

b. Borrower's delivery to Agency of copies of Borrower's Organizational Documents, including certificate of formation of Borrower certified as being true and correct by the Secretary of the State of [insert], a copy of the Borrower's [i.e. Partnership Agreement, Operating Agreement, Corporate By-Laws] including all amendments thereto, together with good standing certificates from the State of [insert], resolutions certified by an authorized officer of Borrower indicating that Borrower has authorized the transactions contemplated by this Funding Agreement and that the persons executing this Funding Agreement and the other Funding Award Documents on behalf of Borrower have been duly authorized to do so, and all other documents contemplated hereby on behalf of Borrower and with such other documentation required by Agency regarding Borrower's creation, status, and authority to enter this transaction.

c. Borrower's delivery to Agency of copies of all government approvals, permits, licenses, and entitlements required for the construction and development of the Project,

including but not limited to zoning approvals and land use permits, each in a form and substance satisfactory to Agency.

d. Borrower's payment of the costs and expenses incurred by Agency, including the cost of the Title Insurance Policy;

e. The Title Company's unconditional commitment to issue the Title Insurance Policy;

f. Borrower's representations and warranties as specified in ARTICLE 5 are true and correct as of the Closing Date;

g. No Event of Default exists under this Funding Agreement or any of the other Funding Award Documents, or any obligation secured by a lien or encumbrance against the Property or the Project;

h. Borrower's delivery of evidence satisfactory to Agency that all labor performed in the construction of the Project satisfies Section 6.19 and Exhibit F.

i. Borrower's delivery to Agency of the Funding Award Documents and such other assignments, documents, subordinations and/or consents entered into by Borrower and/or such other parties for the benefit of Agency that Agency may require, in form and content satisfactory to Agency, duly executed (and acknowledged where necessary) by the appropriate parties thereto.

Agency's approval of the recording of the Funding Award Documents on the Closing Date shall establish the satisfaction of all conditions precedent set forth in this Section 4.1. The Regulatory Agreement shall be recorded concurrently with the Funding Award Documents' Deeds of Trust. Except as otherwise agreed to by Agency in writing, only one Regulatory Agreement shall be required for the entirety of the Funding Award. The Parties and any other lenders shall negotiate and execute subordination agreements, to the satisfaction of Agency, to ensure the Regulatory Agreement's first lien position and specify the priority of the other recordable Funding Award Documents.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

**Section 5.1 Consideration.** As an inducement to Agency to execute this Funding Agreement and to disburse the Funding Award proceeds, Borrower represents and warrants to Agency that the following statements set forth in this ARTICLE 5 are true, correct, and complete in all material respects as of the date hereof and will be true, correct and complete in all material respects as of the Closing Date and until the Funding Award is repaid.

### **Section 5.2 Organization, Powers and Good Standing.**

a. Organization and Powers. Borrower is a [entity], duly organized and validly existing under the laws of the State of [insert], and is qualified to transact business in the State of California and in each jurisdiction where it is required to conduct its operations. Borrower has all requisite power and authority, rights and franchises to own and operate its properties, to carry on

its businesses as now conducted and as proposed to be conducted, and to enter into and perform this Funding Agreement and the other Funding Award Documents.

b. Good Standing. Borrower has made all filings and is in good standing in the State of California and/or 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 materially adverse effect on the business, operations, assets or condition (financial or otherwise) of Borrower.

c. Non-Foreign Status. Borrower is not a “foreign corporation”, “foreign partnership”, “foreign trust”, or “foreign estate”, as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder. Borrower’s U.S. employer identification number previously provided to Agency is correct.

### **Section 5.3 Authorization of Funding Award Documents.**

a. Authorization. The execution, delivery and performance of the Funding Award Documents by Borrower are within Borrower’s powers and have been duly authorized by all necessary action by Borrower.

b. No Conflict. The execution, delivery and performance of the Funding Award Documents by Borrower will not violate (i) Borrower’s Organizational Documents; (ii) any legal requirement affecting Borrower or any of its properties; or (iii) any agreement to which Borrower 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 Funding Agreement) of any lien upon any of such properties.

c. Governmental and Private Approvals. All governmental or regulatory orders, consents, permits, authorizations and approvals required for the commencement of Project construction have been obtained and are in full force and effect. No additional governmental or regulatory actions, filings or registrations with respect to the Project, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower are required for the due execution, delivery and performance by Borrower of the Funding Award Documents.

d. Binding Obligations. This Funding Agreement and the other Funding Award Documents have been duly executed by Borrower, and are legally valid and binding obligations of Borrower, enforceable against Borrower 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 5.4 No Material Defaults.** There exists no material violation of or material default by Borrower and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default by Borrower with respect to (a) the terms of any instrument evidencing or securing any indebtedness secured by the Property, (b) any material lease or other agreement affecting the Property to which Borrower is a party, (c) any material license, permit, statute, ordinance, law, judgment, order, writ,

injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Property may be bound, or (d) any mortgage, instrument, agreement or document by which Borrower, or any of its properties is bound: (i) which is a loan document, (ii) which involves the Property and is not adequately covered by insurance, (iii) which could be reasonably expected to materially and adversely affect the ability of Borrower to perform its obligations under any of the Funding Award Documents, or (iv) which could be reasonably expected to adversely affect the priority of the liens created by this Funding Agreement or any of the Funding Award Documents.

**Section 5.5 Litigation; Adverse Facts.** There is no action, suit, investigation, proceeding or arbitration (whether or not purportedly on behalf of Borrower) at law or in equity or before or by any foreign or domestic court or other governmental entity (a “**Legal Action**”), pending or, to the knowledge of Borrower, threatened against or affecting Borrower or any of its assets which could reasonably be expected to result in any material adverse change in the business, operations, assets (including the Property) or condition (financial or otherwise) of Borrower or would materially and adversely affect Borrower’s ability to perform its obligations under the Funding Award Documents, except as may already have been disclosed in writing to the Agency as of the date of this Funding Agreement. Borrower is not (a) in violation of any applicable law which violation materially and adversely affects or could reasonably be expected to materially and adversely affect the business, operations, assets (including the Property) or condition (financial or otherwise) of Borrower, (b) subject to, or in default with respect to any other legal requirement that would have a materially adverse effect on the business, operations, assets (including the Property) or condition (financial or otherwise) of Borrower, or (c) in default with respect to any agreement to which Borrower is a party or to which it is bound which could reasonably be expected to materially and adversely affect the business, operations, assets (including the Property) or condition (financial or otherwise) of Borrower. There is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower questioning the validity or the enforceability of this Funding Agreement or any of the other Funding Award Documents. Legal action will be deemed “material” if it involves the sum of more than \$50,000.00.

**Section 5.6 Title to Properties; Assets & Liens.** Borrower has good, sufficient and legal title to all properties and assets reflected in its most recent balance sheet delivered to Agency, except for assets disposed of in the ordinary course of business since the date of such balance sheet. Borrower is the sole owner of, and has good and marketable title to the fee interest in the Property, the Project and all other real property described in the Funding Award Documents’ Deeds of Trust, free from any adverse lien, security interest or encumbrance of any kind whatsoever, excepting only (a) liens and encumbrances shown on the Title Insurance Policy, (b) liens and security interests in favor of Agency, and (c) other matters which have been approved in writing by Agency.

**Section 5.7 Disclosure.** There is no fact known to Borrower that materially and adversely affects the business, operations, assets or condition (financial or otherwise) of Borrower which has not been disclosed in this Funding Agreement or in other documents, certificates and written statements furnished to Agency in connection herewith.

**Section 5.8 Payment of Taxes.** All tax returns and reports of Borrower required to be filed by it have been timely filed, and all taxes, assessments, fees and other governmental charges upon Borrower and upon its properties, assets, income and franchises which are due and payable

have been paid when due and payable. Borrower knows of no proposed tax assessment against it that would be material to the condition (financial or otherwise) of Borrower, and Borrower has not contracted with any government entity in connection with such taxes.

**Section 5.9 Securities Activities.** Borrower is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined within Regulations G, T and U of the Board of Governors of the Federal Reserve System), and not more than 25% of the value of Borrower's assets consists of such margin stock. No part of the Funding Award will be used to purchase or carry any margin stock or to extend credit to others for that purpose or for any other purpose that violates the provisions of Regulations U or X of said Board of Governors.

**Section 5.10 Government Regulations.** Borrower is not subject to regulation under the Investment Company Act of 1940, the Federal Power Act, the Public Utility Holding Company Act of 1935, the Interstate Commerce Act or to any federal or state statute or regulation limiting its ability to incur indebtedness.

**Section 5.11 Rights to Project Agreements; Permits and Licenses.** Borrower is the true owner of all rights in and to all existing agreements, permits and licenses relating to the Property entered into by Borrower or issued in the name of Borrower, and will be the true owner of all rights in and to all future agreements, permits and licenses relating to the Property. Borrower's interest in all such agreements, permits and licenses is not subject to any present claim (other than under the Funding Award Documents or as otherwise approved by Agency in its discretion), set-off or deduction other than in the ordinary course of business.

**Section 5.12 Utilities and Access.** Telephone services, electric power, storm sewers, sanitary sewer, potable water facilities and all other utilities and services necessary for the construction, use, operation and maintenance of the Project are available to the Property, are adequate to serve such improvements, and are not subject to any conditions limiting the use of such utilities, other than normal charges to the utility supplier. All streets and easements necessary for the operation and maintenance of the Project are available to the boundaries of the Property.

**Section 5.13 Compliance with Laws.** The Project and the Property, and the uses to which the Project and the Property are and will be put, comply in all material respects with such applicable laws and restrictive covenants.

**Section 5.14 Financial Condition.** The financial statements and all financial data previously delivered to Agency by Borrower in connection with the Funding Award and/or relating to Borrower are true, correct and complete in all material respects. Such financial statements fairly present the financial position of the parties who are the subject thereof as of the date thereof. No material adverse change has occurred in such financial position and, except for the Funding Award, no borrowings have been made by Borrower since the date thereof which are secured by, or might give rise to, a lien or claim against the Property or the proceeds of the Funding Award.

**Section 5.15 Personal Property.** After the Closing Date, Borrower will be the sole owner of the Collateral free from any adverse lien, security interest or adverse claim of any kind whatsoever, except for liens or security interests in favor of Agency.

**Section 5.16 No Condemnation.** No condemnation proceedings or moratorium is pending or, to Borrower's knowledge, threatened against the Project or the Property (or any portion thereof).

**Section 5.17 Other Funding Award Documents.** Each of the representations and warranties of Borrower contained in any of the other Funding Award Documents is true and correct in all material respects. All of such representations and warranties are incorporated herein for the benefit of the Public Entities.

## **ARTICLE 6 COVENANTS OF BORROWER**

**Section 6.1 Consideration.** As an inducement to Agency to execute this Funding Agreement and to disburse the Funding Award, Borrower hereby covenants as set forth in this ARTICLE 6, which covenants shall remain in effect so long as any portion of the Funding Award remains outstanding or unpaid.

**Section 6.2 Compliance with Laws.** Borrower will comply and, to the extent it is able, will use commercially reasonable efforts to require others to comply with all material laws and requirements of all Governmental Authorities having jurisdiction over the Property or construction of the Project and will furnish Agency with reports of any official searches obtained by Borrower for violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will use commercially reasonable efforts to require others to comply in all material respects with all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixturing, use or operation of the Property. The Project, when completed, shall comply in all material respects with all applicable building, zoning and use laws, requirements, regulations and ordinances and will not violate any restrictions of record against the Property or the terms of any lease of all or any portion of the Property.

**Section 6.3 Agency Inspections.** Throughout the term of the Funding Award and during normal business hours, Borrower will permit Agency and Agency's representatives, inspectors and consultants to enter upon the Property, to inspect the Project and materials to be used therein, to audit, examine and copy all contracts, records (including, but not limited to, financial and accounting records pertaining to the Funding Award or the Property), plans and shop drawings which are kept at the construction site or at Borrower's offices, and to discuss the affairs, finances and accounts of Borrower with representatives of Borrower. Borrower will cooperate with and shall cause any contractor to cooperate with any such representatives, inspectors or consultants retained by Agency pursuant to the Funding Award Documents to enable them to perform their functions under this Funding Agreement.

**Section 6.4 Ownership of Personal Property.** Borrower will be the sole owner of all Collateral acquired after the date hereof, free from any adverse lien, security interest or adverse claim of any kind whatsoever, except for security interests and liens in favor of the interest of a lessor pursuant to a lease of personal property reasonably approved by Agency and the liens and security interests approved by Agency pursuant to the Funding Award Documents.

**Section 6.5 Compliance with Funding Award Documents.** Borrower will comply with all conditions of this Funding Agreement. Borrower will comply and, to the extent it is able,

will use its commercially reasonable efforts to cause compliance by parties thereto (other the Public Entities), with all other Funding Award Documents.

**Section 6.6 Trade Names.** Borrower shall immediately notify Agency in writing of any change in the legal, trade or fictitious business names used by Borrower and shall, upon Agency's request, execute any additional financing statements and other certificates necessary to reflect the change in such legal, trade or fictitious business names.

**Section 6.7 Further Assurances.** Borrower shall execute and deliver from time to time, promptly after any reasonable request therefor by Agency, any and all instruments, agreements and documents and shall take such other action as may be necessary or desirable in the reasonable opinion of Agency to maintain, perfect or insure Agency's security provided for herein and in the other Funding Award Documents, including, without limitation, the execution of UCC-1 renewal statements, the execution of such amendments to the Funding Award Documents and the delivery of such endorsements to the Title Insurance Policy, all as Agency shall reasonably require, and Borrower shall pay all fees and expenses (including reasonable attorneys' fees) related thereto. Promptly upon the request of Agency, Borrower shall execute and deliver a Certification of Non-Foreign Status.

**Section 6.8 Notice of Litigation.** Borrower shall give, or cause to be given, prompt written notice to Agency of (a) any action or proceeding to the extent Borrower has knowledge thereof which is instituted by or against it in any federal or state court or before any commission or other regulatory body, federal, state or local, foreign or domestic, or any such proceedings which are threatened against it which, if adversely determined, could have a material and adverse effect upon its business, operations, properties, assets, management, ownership or condition (financial or otherwise), (b) any other action, event or condition of any nature which could reasonably be expected to have a material and adverse effect upon its business, operations, management, assets, properties, ownership or condition (financial or otherwise), or which, with notice or lapse of time or both, would constitute an Event of Default or a default under any other contract, instrument or agreement to which it is a party or to which it or any of its properties or assets may be bound or subject, and (c) any actions, proceedings or notices adversely affecting the Property or Agency's interest therein by any zoning, building or other municipal officers, offices or departments having jurisdiction with respect to the Property.

**Section 6.9 Financial Statements and Reports.** Promptly, and from time to time, upon request of Agency, Borrower shall furnish to Agency such information concerning the Property and Borrower's financial condition, business and affairs, as shall be reasonably requested by Agency. Additionally, within [insert] days of the end of each fiscal year (commencing with Borrower's fiscal year ending [e.g., June 30 or December 31], [year]), Borrower shall furnish to Agency the audited financial statements of Borrower, on a consolidating and consolidated basis and in conformity with GAAP, consisting of at least statements of income, cash flow, changes in financial position and stockholders equity, and a consolidated balance sheet, setting forth in each case in comparative form corresponding figures from the previous financial statements delivered to Agency pursuant to this Section 6.9.

**Section 6.10 Punctual Payments.** Borrower shall punctually pay all principal, interest, fees or other liabilities due under the Funding Award Documents at the times and place and in the

manner specified therein, and immediately upon demand by Agency, the amount by which the outstanding principal balance of the Loan at any time exceeds any limitation on borrowings applicable thereto.

**Section 6.11 Books and Accounting Records.** Borrower shall keep adequate and on a current basis complete and proper records and books of account in connection with the Project, in which full and correct entries will be made of its dealings, business and affairs. Upon reasonable advanced notice to Borrower, all records and books of accounts and other materials deemed to be relevant to the Project shall be accessible at any time during normal business hours to the authorized representatives of Agency for the purpose of examination or audit. Any expenditure from the Funding Award proceeds that is not authorized by this Funding Agreement or that cannot be adequately documented shall be disallowed and must be reimbursed to Agency or its designee by Borrower immediately. Expenditures not described in this Funding Agreement shall be deemed authorized if the performance of such activities is approved in writing by Agency prior to their commencement. Absent fraud or mistake on the part of Agency, the determination by Agency of the qualification of any expenditure shall be final.

**Section 6.12 Amendments to Borrower's Organizational Documents.** Borrower shall not allow any amendments to be made in the terms of Borrower's Organizational Documents without Agency's prior written consent, which consent shall not be unreasonably withheld.

**Section 6.13 Insurance Requirements.** Borrower will maintain the insurance specified in Exhibit E during the period specified therein.

**Section 6.14 Maintenance of Existence.** Borrower shall maintain and preserve its existence and all rights and franchises material to its business.

**Section 6.15 Notice to Agency.** Borrower shall promptly (but in no event more than five days after the occurrence of each such event or matter) give written notice to Agency in reasonable detail of: (a) the occurrence of any Event of Default, or any condition, event or act which with the giving of notice or the passage of time or both would constitute an Event of Default; or (b) any termination or cancellation of any insurance policy which Borrower is required to maintain, or any uninsured or partially insured loss through liability or property damage, or through fire, theft or any other cause affecting Borrower's property in excess of an aggregate of \$100,000.00.

**Section 6.16 Construction Materials.** Borrower will not use, and will not permit the use of, any Hazardous Substance in the construction of the Project, other than Hazardous Substances used in compliance with applicable environmental laws and customarily employed, in accordance with industry practice, in construction of projects similar to the Project.

**Section 6.17 Appraisals.** If deemed reasonably necessary by Agency or if required by law, Agency shall have the right to order Appraisals of the Property from time to time from an appraiser selected by Agency, which Appraisals shall comply with all federal and state standards for Appraisals and otherwise shall be satisfactory to Agency in all respects. Borrower agrees to pay the cost and expense for any Appraisals and reviews as are required pursuant to a change in applicable law, or as deemed necessary by Agency in Agency's sole and absolute discretion during the continuance of an Event of Default.

**Section 6.18 Changes in Management.** Borrower shall notify Agency in writing within 30 days of any changes in the executive management, managing directors or officers of Borrower.

**Section 6.19 Construction Labor Requirements.** In addition to any other applicable laws, Borrower shall ensure that all labor performed in connection with the Project complies with the Act's and Measure A's construction labor requirements, as set forth in Exhibit F.

**Section 6.20 Covenants relating to Projects funded by Tax-Exempt Bonds or Taxable Bonds.** If the Project is funded with any proceeds of the Tax-Exempt Bonds or the Taxable Bonds, promptly, and from time to time, upon request of Agency, Borrower shall furnish to Agency such information that is needed by or desirable to the Agency in connection with its compliance with obligations and covenants of the Agency imposed in connection with the Tax-Exempt Bonds or the Taxable Bonds.

**Section 6.21 Covenants relating to Projects funded by Tax-Exempt Bonds.** If the Project is funded with any proceeds of the Tax-Exempt Bonds, then the [Project-Level Tax Certificate], attached hereto as Exhibit H must be completed prior to the Closing Date.

## **ARTICLE 7 USE AND MAINTENANCE OF THE PROPERTY; NONDISCRIMINATION; RIGHTS OF SECURITY FINANCING HOLDERS**

**Section 7.1 Restrictive Covenants.** Borrower covenants and agrees for itself, its successors, assigns, and every successor in interest to devote the Property to the operation of an affordable housing development in accordance with the terms of the Regulatory Agreement and this Funding Agreement for the period of time specified therein. The foregoing covenants shall run with the land.

**Section 7.2 Maintenance of the Property.** For the period of time set forth in Section 7.6, Borrower shall keep the Property in good condition, order and repair and shall not commit waste or permit impairment, demolition or deterioration of the Property; shall comply with all applicable state and federal regulations addressing the physical condition of the Property and buildings located on the Property and all applicable Governmental Authority standards, including but not limited to building standards, planning regulations, and utilities code; shall complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed and to pay when due all claims for labor performed and materials furnished; shall maintain the buildings in a habitable condition; and do all other acts which from the character or use of the Property may be reasonably necessary. In accordance with Section 7.5, Agency shall have the right to inspect the Property during normal business hours, provided Borrower and the occupant are given at least 72 hours written notice prior to any such inspection.

**Section 7.3 Obligation to Refrain from Discrimination.** Borrower covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property, or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, source of income, age, marital status, physical or mental disability, medical condition, ancestry, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Borrower itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or

occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land and shall remain in effect in perpetuity.

**Section 7.4 Form of Nondiscrimination and Nonsegregation Clause.** Borrower shall refrain from restricting the rental, sale or lease of the Property on the basis of race, color, creed, religion, sex, sexual orientation, source of income, age, marital status, physical or mental disability, medical condition, ancestry, or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

**In deeds.** “The grantee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of section 12955 of the Government Code, as those bases are defined in sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of section 12955, and section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.”

**In leases.** “The lessee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through him, and this lease is made and accepted upon and subject to the following conditions: “That there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of section 12955 of the Government Code, as those bases are defined in sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of section 12955, and section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the land herein leased.”

**In contracts.** “There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of section 12955 of the Government Code, as those bases are defined in sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of section 12955, and section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.”

**Section 7.5 Rights of Access.** For the purposes of ensuring compliance with this Funding Agreement, Agency's representatives shall have the reasonable right of access to the Property without charges or fees for the purpose of inspection of the Property as to maintenance of the improvements thereon. Such representatives of Agency shall be those who are so identified in writing by Agency's Chief Executive Officer, or the Chief Executive Officer's designee.

**Section 7.6 Effect and Duration of Covenants.** The covenants contained in Sections Section 7.1, 7.2, and 7.5 shall remain in effect not less than [insert] years commencing on the date that the Regulatory Agreement is recorded on the Property, and continuing thereafter until the date that both of the following are satisfied: (i) all amounts due and owing under the Funding Award are repaid in full; and (ii) the affordability restrictions provided in the Regulatory Agreement have expired. The covenants against discrimination contained in Section 7.3 and 7.4 shall remain in effect in perpetuity. The covenants established in this Funding Agreement shall, without regard to technical classification and designation, be binding on the part of Borrower and any successors and assigns to the Property or any part thereof, and the tenants, lessees, sublessees and occupants of the Property, for the benefit of and in favor of Agency and any successor in interest thereto.

## **ARTICLE 8 EVENTS OF DEFAULT AND REMEDIES**

**Section 8.1 Events of Default.** The occurrence of any one or more of the following shall constitute an "Event of Default" under this Funding Agreement:

a. Failure by Borrower to pay any monetary amount when due under any Funding Award Document.

b. Failure by Borrower to perform any of the other terms, provisions, and obligations of Borrower pursuant to the Funding Award Documents within 30 days from the receipt of written notice from Agency (the "30 Day Notice") that such performance was due; provided, however that if such failure is not reasonably susceptible to cure within 30 days from receipt of the 30 Day Notice and provided that (i) Borrower shall have in good faith undertaken such cure within said 30 day period and (ii) Borrower shall have diligently prosecuted such cure thereafter, Borrower shall have additional time to prosecute such cure, such additional time not to exceed 120 days, from receipt by Borrower of the 30 Day Notice.

c. Any representation or warranty by Borrower in any Funding Award Document or other loan document that is materially false, incorrect, or misleading as of the date made.

d. The occurrence of any event (including, without limitation, a change in the financial condition, business, or operations of Borrower for any reason whatsoever) that materially and adversely affects the ability of Borrower to perform any of its obligations under the Funding Award Documents.

e. Borrower (i) admits in writing Borrower's inability to pay Borrower's monetary obligations as they become due, (ii) fails to pay when due any monetary obligation, whether such obligation be direct or contingent, to any person in excess of \$50,000, (iii) makes a general assignment for the benefit of creditors, or (iv) applies for, consents to, or acquiesces in, the appointment of a trustee, receiver, or other custodian for Borrower or the property of Borrower,

or in the absence of such application, consent, or acquiescence, a trustee, receiver, or other custodian is appointed for Borrower or the property of Borrower or any part thereof, and such appointment is not discharged within 60 days.

f. Commencement of any case under the Bankruptcy Code, Title 11 of the United State Code, or commencement of any other bankruptcy arrangement, reorganization, receivership, custodianship, or similar proceeding under any federal, state, or foreign law by or against Borrower and with respect to any such case or proceeding that is involuntary, such case or proceeding is not dismissed within 60 days of the filing thereof.

g. Any litigation or proceeding which could reasonably be expected to materially and adversely affect the ability of Borrower to perform their respective obligations under the Funding Award Documents is commenced before any Governmental Authority against Borrower or the property of Borrower or any part thereof and such litigation or proceeding is not defended diligently and in good faith by Borrower.

h. A final judgment or decree for monetary damages or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower by any Government Authority, which together with the aggregate amount of all other such judgments and decrees against Borrower that remain unpaid or that have not been discharged or stayed, exceeds \$50,000, is not paid and discharged or stayed within 30 days after the entry thereof.

i. Commencement of any action or proceeding which seeks as one of its remedies the dissolution of Borrower which is not being defended diligently and in good faith by Borrower, but in any event such action or proceeding must be terminated within 90 days following its commencement.

j. Any material default or event of default on the part of Borrower occurs under any superior or inferior instrument or loan document affecting the Property following notice and an opportunity to cure as provided therein or under any other obligation to any other lender whose loan is secured by a lien encumbering the Property.

k. The occurrence of any Event of Default, as such term is defined in any other loan document.

l. The occurrence of any default in the payment or performance of a term or condition of any credit agreement, note, security agreement, mortgage, deed of trust, deed to secure debt, or other agreement or instrument evidencing or securing any other indebtedness, liabilities or obligations of Borrower to Agency.

**Section 8.2 Remedies.** In addition to the remedies provided in any other loan document, notwithstanding any provision to the contrary herein or any of the other Funding Award Documents, during a continuance of any Event of Default under this Funding Agreement or any of the other Funding Award Documents: (i) Agency's obligation, if any, to make further disbursements of the Funding Award shall abate, and (ii) if the Event of Default shall not be cured within the applicable periods, then Agency shall, at its option, have the remedies provided in the Funding Award Document breached by Borrower, including, without limitation, the option to

declare all outstanding indebtedness to be immediately due and payable without presentment, demand, protest or notice of any kind, and the following remedies: Agency's obligation to make further disbursements to Borrower shall terminate; Agency may, at its option, apply any of Borrower's funds in its possession to the outstanding indebtedness under the Funding Award Documents whether or not such indebtedness is then due; Agency may exercise all rights and remedies available to it under any or all of the Funding Award Documents; and Agency shall have the right to cause an independent contractor selected by Agency to enter into possession of the Property and perform Borrower's obligations under this Funding Agreement. All sums expended by Agency for such purposes shall be deemed to have been disbursed to and borrowed by Borrower and shall be secured by the Funding Award Documents on the Property. The rights and remedies of Agency hereunder are cumulative, and the exercise by Agency of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default caused by Borrower.

**Section 8.3 Force Majeure.** Whenever the performance of an act (or the forbearance therefrom) is required of Borrower, other than the payment of any monetary item (including, but not limited to payments of interest and/or principal on the Funding Award, insurance premiums and/or impounds, real estate impositions and/or impounds, and/or any other monies that are to be paid by Borrower pursuant to the Funding Award Documents) and Borrower is unable to perform or forebear therefrom due to conditions beyond the reasonable control of Borrower, including but not limited to acts of God or the elements, fire, strikes, labor disputes, delays in delivery of materials (not caused by Borrower's or its contractors' failure to make timely payments therefore), then in such event an Event of Default shall not exist, provided that: (i) Borrower gives Agency written notice of any claimed reason for Borrower's inability to perform or forebear within five business days of the occurrence or the commencement of the event that forms the basis of that reason; (ii) Borrower proceeds in good faith and with all reasonable due diligence in a commercially reasonable manner to perform (or forebear) as required; and (iii) the completion of the act or forbearance required of Borrower to the reasonable satisfaction of Agency is not delayed by more than 120 days.

## **ARTICLE 9 GENERAL PROVISIONS**

### **Section 9.1 Address of Notices.**

a. All notices, demands or other communications of any type under this Funding Agreement shall be in writing and shall be (a) delivered in person, in which event the notice shall be deemed received when delivery is actually made; (b) sent by overnight courier for next business day delivery, in which event the notice shall be deemed received on the first business day after delivery to, and acceptance for delivery by, the courier; or (c) sent by registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service, in which event the notice shall be deemed received at the time of personal delivery or on the first attempted delivery on a business day. Each party may change its address by written notice in accordance with this Section. All such notices shall be sent to the following addresses:

Agency: Los Angeles County Affordable Housing Solutions Agency  
Attn: Claudia Lima, Chief Strategic Investments Officer  
1370 N. St. Andrews Place, Room B-16

Los Angeles, CA 90028

Consortium: Los Angeles Affordable Housing Solutions Consortium  
Attn: [insert]  
[insert mailing address]

With a copy to: Best Best & Krieger LLP  
Attn: Michael J. Maurer, LACAHS Co-General Counsel  
300 South Grand Ave., 25th Floor  
Los Angeles, CA 90071

Borrower: [insert]  
Attn: [insert]  
[insert mailing address]

With a copy to: [insert]  
Attn: [insert]  
[insert mailing address]

**Section 9.2 Assignment.** The qualifications and identity of Borrower are of particular concern to Agency. It is because of these unique qualifications and identity that Agency has entered into this Funding Agreement with Borrower. Borrower shall not transfer, assign, sell, or grant any interest in this Funding Agreement or any portion of the Property without Agency's prior written consent, at Agency's sole and absolute discretion.

**Section 9.3 Authority to File Notices.** Effective upon the occurrence of an Event of Default, Borrower irrevocably appoints Agency as its attorney-in-fact, with full power of substitution, to file for record, at Borrower's cost and expense and in Borrower's name, any notices of completion, notices of cessation of labor, or any other notices that Agency reasonably considers necessary or desirable to protect its security, and which are consistent with the terms of this Funding Agreement.

**Section 9.4 No Waiver.** No disbursement of proceeds of the Funding Award shall constitute a waiver of any conditions to Agency's obligation to make further disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding Agency from thereafter declaring such inability to constitute a default or Event of Default under this Funding Agreement.

**Section 9.5 Payment of Expenses.** Borrower shall pay all taxes and assessments and all reasonable expenses, charges, costs and fees provided for in this Funding Agreement or relating to the Funding Award or construction of the Property, including, without limitation, any fees incurred for recording or filing any of the Funding Award Documents, title insurance premiums and charges, tax service contract fees, fees of any consultants, fees and expenses of Agency's counsel incurred in connection with any enforcement of the Funding Award Documents,

documentation and processing fees, printing, photostating and duplicating expenses, air freight charges, escrow fees, costs of surveys, premiums of hazard insurance policies and surety bonds and fees for any appraisal and appraisal review, market or feasibility study required by Agency. Borrower hereby authorizes Agency to disburse the proceeds of the Funding Award Documents to pay such expenses, charges, costs and fees notwithstanding that Borrower may not have requested a disbursement of such amount.

**Section 9.6 Disclaimer by Agency.** Agency shall not 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. Agency shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project or the Project. Borrower is not and shall not be an agent of Agency for any purpose. Agency is not a joint venture partner with Borrower or with any person having an ownership interest in Borrower in any manner whatsoever. Prior to default by Borrower under this Funding Agreement and the exercise of remedies granted herein, Agency 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 Agency. Approvals granted by Agency for any matters covered under this Funding Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

**Section 9.7 Disclaimer by Consortium.** Consortium shall not 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. Consortium shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project or the Project. Borrower is not and shall not be an agent of Consortium for any purpose. Consortium is not a joint venture partner with Borrower or with any person having an ownership interest in Borrower in any manner whatsoever. Prior to default by Borrower under this Funding Agreement and the exercise of remedies granted herein, Consortium 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 Consortium. Approvals granted by Consortium for any matters covered under this Funding Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

**Section 9.8 Indemnification of Agency.** Borrower will take all responsibility for its work, and will bear all losses and damages directly resulting from it and from the work of any of its contractors or subcontractors, or to Agency, its officers, representatives, agents and employees, on account of any act, error or omission of Borrower in connection with the construction of the Project or performance of this Funding Agreement. Borrower agrees to indemnify, to assume the defense of (if requested by Agency) and to hold harmless Agency, its officers, representatives, agents, and employees from every claim, loss, damage, injury, expense (including reasonable attorney's fees), judgment and direct or vicarious liability of every kind, nature and description arising out of, or in connection with, the construction of the Project or performance of this Funding Agreement by Borrower and/or its agents, employees or subcontractors, except where such loss,

injury, death, or damage is caused by the sole negligence or willful misconduct of personnel employed by Agency. The foregoing includes, but is not limited to, any Environmental Claim or Wage Action attributable to any action or failure to act by Borrower and/or its agents, employees, or subcontractors. It is the intent of the parties to this Funding Agreement to provide the broadest possible coverage for Agency. Borrower shall reimburse Agency for all costs, attorney's fees, expenses and liabilities incurred with respect to any litigation in which Borrower is obligated to indemnify, defend and hold harmless Agency under this Funding Agreement. The aforementioned indemnity will extend to, but will not be limited to Borrower's breach of contract, faulty workmanship or any negligent or intentional conduct whatsoever by Borrower. Insurance and coverage required under this Funding Agreement does not relieve Borrower or its subcontractors, consultants or both, from liability under this Section.

**Section 9.9 Indemnification of Consortium.** Borrower will take all responsibility for its work, and will bear all losses and damages directly resulting from it and from the work of any of its contractors or subcontractors, or to Consortium, its officers, representatives, agents and employees, on account of any act, error or omission of Borrower in connection with the construction of the Project or performance of this Funding Agreement. Borrower agrees to indemnify, to assume the defense of (if requested by Consortium) and to hold harmless Consortium, its officers, representatives, agents, and employees from every claim, loss, damage, injury, expense (including reasonable attorney's fees), judgment and direct or vicarious liability of every kind, nature and description arising out of, or in connection with, the construction of the Project or performance of this Funding Agreement by Borrower and/or its agents, employees or subcontractors, except where such loss, injury, death, or damage is caused by the sole negligence or willful misconduct of personnel employed by Consortium. The foregoing includes, but is not limited to, any Environmental Claim or Wage Action attributable to any action or failure to act by Borrower and/or its agents, employees, or subcontractors. It is the intent of the parties to this Funding Agreement to provide the broadest possible coverage for Consortium. Borrower shall reimburse Consortium for all costs, attorney's fees, expenses and liabilities incurred with respect to any litigation in which Borrower is obligated to indemnify, defend and hold harmless Consortium under this Funding Agreement. The aforementioned indemnity will extend to, but will not be limited to Borrower's breach of contract, faulty workmanship or any negligent or intentional conduct whatsoever by Borrower. Insurance and coverage required under this Funding Agreement does not relieve Borrower or its subcontractors, consultants or both, from liability under this Section.

**Section 9.10 Titles and Headings.** The headings at the beginning of each section of this Funding Agreement are solely for convenience and are not part of this Funding Agreement. Unless otherwise indicated, each reference in this Funding Agreement to a section or an exhibit is a reference to the respective section herein or exhibit hereto.

**Section 9.11 Entire Funding Agreement.** This Funding Agreement, including all exhibits attached hereto, contains the entire agreement between Agency and Borrower. No written or oral agreements with any officer, agent or employee of Agency or Consortium prior to execution of this Funding Agreement will affect or modify any of the terms or obligations contained in any documents comprising this Funding Agreement.

**Section 9.12 Joint and Several Obligations.** If this Funding Agreement is executed by more than one party as Borrower, all obligations of Borrower herein shall be the joint and several obligations of each party executing this Funding Agreement as Borrower.

**Section 9.13 Time of the Essence.** Time is of the essence for all purposes under this Funding Agreement.

**Section 9.14 Binding Effect.** The Funding Award Documents will be binding upon, and inure to the benefit of, Borrower and Agency and their respective successors and assigns. Subject to Section 9.2, Borrower may not delegate its obligations under the Funding Award Documents.

**Section 9.15 Enforcement Costs; Attorney's Fees.** Borrower agrees to pay all costs of enforcement and collection and preparation for any Event of Default or any action taken by Agency or Consortium (including, without limitation, reasonable attorneys' fees) whether or not any action or proceeding is brought (including, without limitation, all such costs incurred in connection with any bankruptcy, receivership, or other court proceedings (whether at the trial or appellate level)), together with interest thereon from the date of demand at the default interest rate; provided, however, if legal proceedings are initiated to enforce the rights, duties or obligations of the parties under the Funding Award Documents, then the prevailing party in such proceeding shall be entitled to collect its reasonable attorney fees and costs from the other party in addition to any other damages or relief obtained in such proceedings.

**Section 9.16 Counterparts.** This Funding Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute one and the same instrument. Unless otherwise prohibited by law or Agency policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format.

**Section 9.17 Amendments.** The Parties reserve the right to amend this Funding Agreement by mutual consent. No amendment will be valid unless made in writing and signed by the Parties.

**Section 9.18 Continued Validity.** The invalidity of any clause, part or provisions of this Funding Agreement will not affect the validity of the remaining portions thereof.

**Section 9.19 Non-Discrimination.** In addition to any other provision of this Funding Agreement, Borrower will comply with all applicable Federal, State and Local laws and regulations concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101, 1102 and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. Borrower will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection

for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Borrower discriminate in provision of services provided in or under this Funding Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

**Section 9.20 Exhibits.** All exhibits attached and referred to in this Funding Agreement are incorporated in this Funding Agreement by this reference as if set forth fully herein. These include the following:

<u>Exhibit A</u>	Property Legal Description
<u>Exhibit B</u>	Form of Promissory Note
<u>Exhibit C</u>	Form of Deed of Trust
<u>Exhibit D</u>	Form of Regulatory Agreement
<u>Exhibit E</u>	[Insurance Requirements]
<u>Exhibit F</u>	Act and Measure A Labor Requirements
<u>Exhibit G</u>	Rental Subsidy Agreement [Replace with "Reserved" if the Funding Award does not include a Rental Subsidy]
<u>Exhibit H</u>	[Project-Level Tax Certificate][Replace with "Reserved" if the Project is not funded with Tax Exempt Bonds]

**Section 9.21 Authority to Execute.** Each Party warrants that the person who signs this Funding Agreement has full authority to do so and to perform all obligations without the consent or approval of any other party or person.

**Section 9.22 Governing Law.** This Funding Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Funding Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the law of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Funding Agreement, including mediation or other alternative dispute resolution proceedings, shall be brought only in Los Angeles County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN LOS ANGELES COUNTY, CALIFORNIA.

**Section 9.23 Government Claims Act.** Nothing herein shall constitute a waiver by either Public Entity of the provisions of Division 3.6 of Title 1 of the Government Code, including but not limited to the requirement to duly file a claim prior to instituting litigation.

**Section 9.24 Non-Liability of Agency Officials and Employees.** No member, official or employee of Agency or Consortium shall be personally liable to Borrower, or any successor in interest, in the event of any default or breach by Agency or Consortium or for any amount which may become due to Borrower or its successors, or on any obligations under the terms of the Funding Award Documents. Borrower hereby waives and releases any claim it may have against the members, officials or employees of Agency and Consortium with respect to any default or breach by Agency Consortium or for any amount which may become due to Borrower or its successors, or on any obligations under the terms of the Funding Award Documents. Borrower

makes such release with full knowledge of Civil Code section 1542 and hereby waives any and all rights thereunder to the extent of this release, if such section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

“A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her, will have materially affected his or her settlement with the debtor or released party.”

*[Signatures on following page]*

IN WITNESS WHEREOF, the parties have executed this Funding Agreement as of the dates set forth below.

**AGENCY:**

**Los Angeles County Affordable Housing Solutions  
Agency, a special act agency**

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[insert], [title]  
Date: [insert]

APPROVED AS TO FORM:

---

Agency Co-General Counsel, [name]

**CONSORTIUM**  
**Los Angeles Affordable Housing Solutions**  
**Consortium, a joint exercise of powers authority**

---

[insert], [title]  
Date: [insert]

APPROVED AS TO FORM:

---

Agency Co-General Counsel, [name]

*[Signatures continue on following page.]*

DRAFT

**BORROWER:**

[Name]

a [Entity Type]

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

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

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

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

DRAFT

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

Real property in the City of Los Angeles, County of Los Angeles, State of California, described as follows:

APN: [insert]

DRAFT

**EXHIBIT B**

**[PRODUCT TYPE] PROMISSORY NOTE**

**[Project Name]**

**(Secured by the [Product Type] Deed of Trust)**

\$(insert)

[date]  
[address]

For value received, the undersigned [Borrower], a [entity] (“**Borrower**”) promises to pay to the order of the Los Angeles County Affordable Housing Solutions Agency, a special act agency (“**Agency**”), the principal sum of \$(insert) (“**Product Type**”), with interest on the unpaid principal balance as specified herein.

1. **Purpose.** This [Product Type] promissory note (“**Note**”) is made and delivered pursuant to and in implementation of that certain Los Angeles County Affordable Housing Solutions Agency Project Funding Agreement (PPO NOFA #1) (“**Funding Agreement**”) entered into between Agency, Borrower, and the Consortium concurrently with this Note. This Note and the Funding Agreement are made for the purposes set forth in the Funding Agreement. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Funding Agreement.

2. **Security.** Payment of this Note is secured by a [Product Type] Deed Of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date herewith (“**Deed of Trust**”) from Borrower to Agency and recorded against the Property in the Official Records.

3. **Maturity Date.** The entire unpaid principal balance of the [Product Type] evidenced by this Note, together with all accrued and unpaid interest thereon, shall be due and payable in full on or before the [Product Type] Maturity Date, unless the Note is accelerated hereunder or as otherwise provided in the Funding Agreement.

4. **Payments.** Principal and any interest under this Note are due and payable as set forth in the “Repayment Terms” section of the Funding Term Sheet for the [Product Type].

5. **Payment Location.** Payment shall be made in lawful money of the United States to the Los Angeles County Affordable Housing Solutions Agency, 1370 N. St. Andrews Place, Room B-16, Los Angeles, CA 90028, Attn: Claudia Lima, Chief Strategic Investments Officer. The place of payment may be changed from time to time as Agency may designate in writing.

6. **Default.** The occurrence of any of the following shall constitute an event of default under this Note:

- a. Borrower fails to pay any amount due hereunder when due;

b. Any other default by Borrower under this Note, the [Product Type] Deed of Trust, the Regulatory Agreement, the Funding Agreement or any other Funding Award Document after the expiration of all applicable cure periods; or

c. Any default by Borrower under any other obligation of Borrower recorded against the Property after the expiration of all applicable cure periods.

Upon the occurrence of any uncured event of default, or at any time thereafter, at the option of Agency, the entire unpaid principal and interest owing under this Note shall become immediately due and payable. This option may be exercised at any time following such event, and the acceptance of one or more installments thereafter shall not constitute a waiver of Agency's option. Agency's failure to exercise such option shall not constitute a waiver of such option with respect to any subsequent event. Agency's failure in the exercise of any other right or remedy hereunder or under any agreement which secures the [Product Type] or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

**7. Default Interest Rate.** At all times when Borrower is in default hereunder by reason of Borrower's failure to pay principal due under this Note within applicable cure periods, the interest rate on the sums to which Borrower is in default (including principal, if Borrower has elected to declare it immediately due and payable), shall be the highest rate then allowed by law as of the date of the default or 10%, whichever is lower.

**8. Waivers.** Borrower and any endorsers hereof and all others who may become liable for all or any part of this obligation, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without any way affecting or discharging this liability.

**9. Costs.** Borrower agrees to pay immediately upon demand all costs and expenses of Agency including reasonable attorneys' fees:

a. If after default and the expiration of all notice and cure periods this Note is placed in the hands of an attorney or attorneys for collection;

b. If after a default hereunder or under the [Product Type] Deed of Trust or Funding Agreement and after the expiration of all notice and cure periods Agency finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Borrower;

c. If Borrower seeks to have the Property abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of this Note or prohibiting the enforcement of the [Product Type] Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court;

d. If Agency shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental entity, affecting the Property or the title thereto or the interest of Agency under the [Product Type] Deed of Trust, including, without limitation, any form of condemnation or eminent domain proceeding, Agency shall be reimbursed by Borrower immediately upon demand for all costs, charges and reasonable attorneys' fees incurred by Agency in any such case, and the same shall be secured by the [Product Type] Deed of Trust as a further charge and lien upon the Property.

**10. Notices.** All notices to Agency or Borrower shall be given in the manner and at the address set forth in the Funding Agreement.

**11. California Law.** This Note shall be construed in accordance with and governed by the laws of the State of California.

**12. Severability.** If any provision of this Note shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

**13. Nonrecourse.** This Note is a nonrecourse obligation of Borrower. Neither Borrower nor any of its officers, directors or general and limited partners shall have any personal liability for repaying the principal or interest of the Note. In any action brought to enforce the obligations of Borrower under this Note, the [Product Type] Deed of Trust or any other instrument or agreement evidencing, securing or relating to the indebtedness evidenced by this Note, the judgment or decree shall be enforceable against Borrower solely and only to the extent of its interest in the Property described in the [Product Type] Deed of Trust or its interest in any other security loaned by Borrower as security for this Note, and Agency shall not seek any deficiency judgment against Borrower. The foregoing provisions shall not prevent recourse to the collateral security for the loan or constitute a waiver, release or discharge of or otherwise affect the obligation to pay, any indebtedness evidenced by the loan documents executed in connection with this Project or limit the right of any person to name Borrower or any other person claiming an interest in or right to such collateral as party defendant in any action or suit for judicial foreclosure or in the exercise of any other remedy, including injunctive or other equitable relief, under any of the Funding Award Documents executed in connection with the Project so long as no deficiency judgment shall be sought against Borrower. The foregoing limitation shall not apply to any and all loss, damage, liability, action, cause of action, cost or expense (including without limitation, reasonable attorneys' fees and expenses) to the extent incurred by Agency as a result of any:

A. Fraud or material misrepresentation under or in connection with the [Product Type] or any loan document executed in connection with the Project;

B. Intentional bad faith waste of the Property by Borrower;

C. Losses resulting from Borrower's failure to maintain insurance as required under the [Product Type] Deed of Trust; or

D. Misappropriation of any rents, security deposits, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security by Borrower.

If any of the events listed in the foregoing A. through D. occurs, Agency shall have the right to proceed directly against Borrower at the time the event giving rise to the recourse liability occurred to recover any and all loss, damage, liability, action, cause of action, cost or expense (including without limitation, reasonable attorneys' fees and expenses) incurred by Agency.

**14. Binding on Successors.** The terms of this Note shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. Whenever used, the words "Borrower" and "Agency" shall be deemed to include the representatives, successors and assigns of Borrower and Agency.

**15. Prepayment.** At the option of Borrower, but upon at least 60 days prior written notice, this Note may be prepaid at any time without penalty.

**BORROWER:**

[Insert]  
[Entity Type]

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

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

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

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

**EXHIBIT C**  
**DEED OF TRUST**

[Begins on following page]

DRAFT

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Los Angeles County Affordable  
Housing Solutions Agency  
1370 N. St. Andrews Place,  
Room B-16  
Los Angeles, CA 90028  
Attn: Claudia Lima, Chief  
Strategic Investments Officer

Space above line for Recorder's use only  
Exempt from Recording Fees pursuant to Govt. Code § 27383

**LOS ANGELES COUNTY AFFORDABLE HOUSING SOLUTIONS AGENCY**

**[PRODUCT TYPE] DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY  
AGREEMENT AND FIXTURE FILING**

This [Product Type] Deed Of Trust, Assignment of Rents, Security Agreement and Fixture Filing (“**Deed of Trust**”) is made as of [date], among [name], a [entity] (“**Trustor**”), whose address is [insert], [title company], whose address [address] (“**Trustee**”), and the Los Angeles County Affordable Housing Solutions Agency, whose address is 1370 N. St. Andrews Place, Room B-16, Los Angeles, CA 90028 (“**Beneficiary**”).

Trustor irrevocably grants, conveys, transfers, and assigns to Trustee in trust, with power of sale and right of entry and possession, all of Trustor's estate, right, title, and interest in, to and under the following property (collectively, the “**Property**”): (a) the real property in Los Angeles County, California, described on Exhibit A-1 attached hereto and incorporated herein by this reference, together with all existing and future easements and rights affording access to it (the “**Land**”), (b) together with all buildings, structures, and improvements now existing or hereafter constructed thereon (the “**Improvements**”), (c) together with all articles of personal property now or hereafter attached to, placed upon for an indefinite term, or used in connection with the Land and/or Improvements, together with all goods and other property that are, or at any time become, so related to the Property that an interest in them arises under real estate law, or they are otherwise adjudged to be a “**fixture**” under applicable law (each a “**Fixture**,” collectively “**Fixtures**”), (d) together with all other property and interests of any kind or character which may be reasonably necessary or desirable to promote the present and future beneficial use and enjoyment of such real property and improvements.

**1. Secured Obligations.** Trustor makes the grant, conveyance, transfer, and assignment herein for the purpose of securing the following obligations (the “**Secured Obligations**”): (a) payment of the sum of \$[insert] with interest thereon according to the terms of

a secured promissory note (“**Note**”) of even date herewith, executed by Trustor in favor of Beneficiary or order and any extension or renewals thereof; (b) payment of such further sums as the then record owner of the Property may borrow from Beneficiary, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and (c) performance of each agreement and obligation of Trustor under that certain Los Angeles County Affordable Housing Solutions Agency Project Funding Agreement (PPO NOFA #1) (“**Funding Agreement**”) of even date herewith and executed by Trustor, Beneficiary, and the Consortium (as defined in the Funding Agreement). The payment of the amount owing pursuant to the terms of the Note by Trustor does not extinguish the rights of the Beneficiary under the Regulatory Agreement (as defined in the Funding Agreement).

**2. Maintenance and Repair.** Trustor shall: (a) keep the Property in good condition and repair and not remove or demolish any building except as may be necessary to construct the Project (as defined under the Funding Agreement); (b) complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed; (c) pay when due all claims for labor performed and materials furnished; (d) comply with all laws affecting the Property or requiring any alterations or improvements to be made; (e) not commit or permit waste; and (f) cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which from the character or use of the Property may be reasonably necessary.

**3. Insurance.** Trustor shall maintain insurance coverage required under the Funding Agreement.

**4. Defense of Security.** Trustor shall appear in and defend any action or proceeding purporting to affect the security or the rights or powers of Beneficiary or Trustee. Trustor shall pay all costs and expenses, including costs of evidence of title and attorneys’ fees, in any such action or proceeding in which Trustee or Beneficiary may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

**5. Payment of Taxes and Liens.** Trustor shall pay (a) at least 10 days before delinquency, all non-abated taxes and assessments affecting the Property, including water stock assessments; (b) when due, all encumbrances, charges, and liens, with interest, on the Property, which are or appear to be prior or superior to this Deed of Trust; and (c) upon demand all reasonable and documented costs, fees, and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act provided for in this Deed of Trust after written notice of such failure by Beneficiary and a reasonably opportunity to cure, then Beneficiary or Trustee may, without obligation to do so, and with or without notice to or demand upon Trustor, and without releasing Trustor from any obligation under this Deed of Trust: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (b) appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest or settle any encumbrance, charge or lien which in the judgment of either appears to be senior to this Deed of Trust; and (d) in exercising any such powers, pay allowable expenses, including attorneys’ fees.

6. **Reimbursement of Costs.** Trustor shall pay upon demand all reasonable and documented sums expended by Beneficiary or Trustee provided for in this Deed of Trust or allowed by law, with interest from date of expenditure at the maximum rate provided in the Note.

7. **No Waiver.** By accepting payment of any sum after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums or declare a default for failure to pay.

8. **Reconveyance.** That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note or notes to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals of such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto.”

9. **Assignment of Rents.** Trustor hereby absolutely and unconditionally assigns to Beneficiary all of the rents, issues, profits, royalties, revenues, income, and other benefits (collectively, the “**Rents**”) derived from the Property, whether now due, past due or to become due, and hereby gives to and confers upon Beneficiary, either directly or through a receiver, the right, power, and authority, but not the obligation, to collect the Rents, and to sue, either in the name of Trustor or Beneficiary, for all such Rents and to apply the same to the indebtedness secured hereby in such order as Beneficiary may determine in its sole discretion. This assignment of Rents is intended to create and shall be construed to create an absolute assignment to Beneficiary of all of Trustor’s right, title, and interest in the Rents. So long as no default exists by Trustor in the payment of any indebtedness secured hereby, or in any other covenant contained herein, or in said note or notes or in any other document evidencing or securing such indebtedness, Trustor shall have the right to collect all Rents from the Property and to retain, use, and enjoy the same. Upon the occurrence of such a default beyond any applicable notice and cure periods, without the necessity of demand or other notice to Trustor or any other act to enforce Beneficiary’s interest pursuant to this assignment, Trustor shall have no interest whatsoever in the Rents that are received by Trustor after a default, and all such Rents shall be received and held by Trustor in constructive trust for Beneficiary and delivered promptly to Beneficiary, or to a court-appointed receiver for the Property, without the necessity for further notice to, or demand upon, Trustor. Upon the occurrence of such a default, beyond any applicable notice and cure periods, and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any tenant of the Property a notice to the effect that: (a) a default has occurred; (b) Beneficiary has elected to exercise its rights under this assignment; and (c) such tenant is thereby directed to thereafter make all payments of Rents to or for the benefit of Beneficiary or as Beneficiary shall direct. Any such tenant shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice, irrespective of whether a dispute exists between Trustor and Beneficiary with respect to the existence of a default or the rights of Beneficiary hereunder. Any such tenant shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Trustor hereby agrees to indemnify, defend, and hold any such tenant harmless from and against any and

all losses, claims, damages or liabilities arising from or related to any payment of Rents by such tenant made in reliance on and pursuant to such notice.

**10. Default and Foreclosure.** Upon default by Trustor in payment or performance of any Secured Obligation, subject to any applicable notice and cure period, Beneficiary may declare all sums secured immediately due and payable by delivery to Trustee of a declaration of default and demand for sale and of a notice of default and of a notice of sale, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said note or notes, and all documents evidencing expenditures secured by this Deed of Trust. Upon default of any obligation secured by this Deed of Trust and acceleration of all sums due, Beneficiary may instruct Trustee to proceed with a sale of the Property under the power of sale granted in this Deed of Trust, noticed and held in accordance with California Civil Code sections 2924, et seq., as such statutes may be amended from time to time. Trustor waives all rights it may have to require marshaling of assets or to require sales of assets in any particular order, including any rights under California Civil Code sections 2899 and 3455.

**11. Distribution of Foreclosure Proceeds.** The proceeds generated by any Foreclosure (“**Proceeds**”) shall be distributed as follows: (i) First, Beneficiary shall be fully paid any amounts owing under the Secured Obligations; (ii) Second, any remaining Proceeds shall be distributed in accordance with California Civil Code section 2924(k). As used herein, “**Foreclosure**” means any judicial or non-judicial foreclosure, trustee’s sale, deed-in-lieu transfer, short sale, or similar transaction.

**12. Substitution of Trustee.** Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers, and duties. Said instrument must contain the name of the original Trustor, Trustee, and Beneficiary hereunder, the book and page where this Deed of Trust is recorded, and the name and address of the new Trustee.

**13. Successors and Assigns.** This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term “Beneficiary” shall mean the owner and holder, including pledgees, of the secured note or notes, whether or not named as Beneficiary herein.

**14. Trustee Acceptance.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

**15. Further Assurances.** Trustor shall, at its own cost and expense, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, and assurances as Trustee or Beneficiary shall from

time to time reasonably require, for better assuring, conveying, assigning, transferring, and confirming unto Trustee the Property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering, or recording this Deed of Trust. Trustor shall, on demand, execute and deliver, and hereby authorizes Trustee and Beneficiary, or either of them, to execute in the name of Trustor, to the extent it may lawfully do so, one or more financing statements, chattel mortgages, or comparable security instruments, to evidence more effectively the lien hereof. Immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, Trustor shall cause this Deed of Trust, and any security instruments creating a lien or evidencing the lien hereof upon any personal property and each instrument of further assurance, to be filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the title of Trustee to, the Property encumbered hereby.

**16. Condemnation and Insurance Proceeds.** Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or other taking of all or any portion of the Property, or knowledge of any casualty damage to the Property, or damage in any other manner, Trustor shall immediately notify Beneficiary thereof. Trustor hereby authorizes and empowers Beneficiary as attorney-in-fact for Trustor to make proof of loss, to adjust and compromise any claim under the insurance policies covering the Property, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this Section shall require Beneficiary to incur any expense or take any action hereunder. Trustor hereby authorizes and empowers Beneficiary, at Beneficiary's option, as attorney-in-fact for Trustor, to commence, appear in, and prosecute, in Beneficiary's or Trustor's name, any action or proceeding relating to any condemnation or other taking of all or any part of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, or for conveyances in lieu of the Property, or any part thereof, shall be paid to Beneficiary. The foregoing powers of attorney are coupled with an interest and are irrevocable. Trustor hereby authorizes Beneficiary to apply such awards, payments, proceeds or damages relating to condemnation of the Property and insurance covering the Property, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, subject to the requirements of applicable law and the provisions hereof, to restoration or repair of the Property or to payment of the sums secured by this Deed of Trust. Beneficiary shall be under no obligation to question the amount of any compensation, awards, proceeds, damages, claims, rights of action, and payments relating to condemnation or other taking of the Property or insured casualty affecting the Property, and may accept the same in the amount in which the same shall be paid. Trustor shall execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking or such insurance as Beneficiary may require. Notwithstanding the above, Beneficiary shall release all insurance and condemnation proceeds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that such restoration, repair or

rebuilding is economically feasible, provided, Beneficiary acknowledges and agrees that if any casualty affects the Property at any point after the execution of this Deed of Trust and prior to the construction of the Trustor's new Improvements, the Trustor shall not be obligated to reconstruct any improvements on the Property. If such insurance proceeds shall be insufficient for such purposes, Trustor shall make up the deficiency. If the Project is subject to a partial condemnation or taking, then the proceeds received therefrom shall be applied to restore the Project taken, provided the Beneficiary determines that such restoration is economically feasible and no default exists under the Financing Documents following the expiration of all applicable cure periods. If the Project is subject to a total condemnation, or if Beneficiary determines that restoration of the Project is not feasible following a partial condemnation, or if a default exists then the proceeds from any condemnation award or claim for damages shall be used first to repay all sums under the Note, with the excess, if any, paid to Trustor and any junior lenders.

**17. Severability.** If any one or more of the provisions contained in this Deed of Trust shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein or therein, but only to the extent of such invalidity.

**18. Estoppel Certificate.** Trustor shall, within 30 days of a written request from Beneficiary, furnish Beneficiary with a written statement, duly acknowledged, setting forth the sums secured by this Deed of Trust and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Deed of Trust.

**19. California Uniform Commercial Code Security Agreement; Fixture Filing.** Trustor hereby grants Beneficiary a security interest in all personal property of Trustor located on the Property and wherever located and used in any way in connection with or in any way relating to the Property, and whether now owned or hereafter in existence, acquired or created (including equipment, inventory, goods, documents, instruments, general intangibles, chattel paper, accounts, accounts receivable, deposit accounts, and contract rights), and all fixtures of Trustor now owned or hereafter in existence, acquired or created on, of or relating to the Property, and all substitutions, replacements, additions, accessions, and proceeds (including insurance proceeds) of all of the foregoing (collectively, the "**Personal Property**"). Beneficiary may file this Deed of Trust, or a reproduction hereof, in the real estate records or other appropriate index, as a financing statement for the Personal Property. Any reproduction of this Deed of Trust or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Trustor shall execute and deliver to Beneficiary, upon Beneficiary's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Deed of Trust in such form as Beneficiary may require to perfect a security interest with respect to the Personal Property. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. Upon Trustor's breach of any covenant or agreement of Trustor contained in this Deed of Trust, including the covenants to pay when due all sums secured by this Deed of Trust, Beneficiary shall have the remedies of a secured party under the California Uniform Commercial Code and, at Beneficiary's

option, may also invoke any remedies provided in this Deed of Trust as to the Personal Property. In exercising any of such remedies, Beneficiary may proceed against the Property and any of the Personal Property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the California Uniform Commercial Code or the remedies provided in the Deed of Trust. This Deed of Trust also covers goods which are or which are to become fixtures on the Property and constitutes and is filed as a fixture filing under the California Uniform Commercial Code.

**20. Due-On-Sale Encumbrance.** Except as provided in the Funding Agreement, if all or any part of the Property, or any interest therein, or any beneficial interest in Trustor (if Trustor is not a natural person or persons but is a corporation, partnership, trust, limited liability company or other legal entity), is sold, transferred, mortgaged, assigned, pledged, or further encumbered, whether directly or indirectly, whether voluntarily or involuntarily, or by operational law, Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable, and Beneficiary may invoke any remedies permitted by this Deed of Trust.

[CONTINUED ON NEXT PAGE]

**TRUSTOR**

[Name]  
a [Entity Type]

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

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

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

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

**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, \_\_\_\_\_, Notary Public, personally appeared,

\_\_\_\_\_, proved to me 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 \_\_\_\_\_

**DEED OF TRUST EXHIBIT A-1**  
**PROPERTY DESCRIPTION FOR DEED OF TRUST**

Real property in the City Los Angeles , County of Los Angeles, State of California, described as follows:

[insert]

APN: [insert]

DRAFT

**EXHIBIT D**

**REGULATORY AGREEMENT**

[Begins on following page]

DRAFT

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Los Angeles County Affordable  
Housing Solutions Agency  
1370 N. St. Andrews Place,  
Room B-16  
Los Angeles, CA 90028  
Attn: Claudia Lima, Chief  
Strategic Investments Officer

Space above line for Recorder's use only  
Exempt from Recording Fees pursuant to Govt. Code § 27383

**LOS ANGELES COUNTY AFFORDABLE HOUSING SOLUTIONS AGENCY**

**REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING (“**Regulatory Agreement**”) is dated as of [insert] (the “**Effective Date**”), and is made by and between the Los Angeles County Affordable Housing Solutions Agency, a special act agency (“**Agency**”), and [name], a [entity] (“**Owner**”). Agency and Owner are each individually a “**Party**” and collectively the “**Parties.**”

**RECITALS**

A. Owner proposes the construction and operation of a residential development consisting of [quantity] multifamily residential units (“**Residential Units**”), as more specifically defined in Section 2 as the “**Project,**” on that certain real property specifically defined as the “**Property**” in Section 2.

B. Under that certain Los Angeles County Affordable Housing Solutions Agency Project Funding Agreement (PPO NOFA #1) dated as of [insert] (“**Funding Agreement**”), Agency agreed to provide Owner with a Funding Award (as defined under the Funding Agreement) for purposes of developing and operating the Project on the Property. As consideration for receiving the Funding Award, Borrower agreed to record covenants against the Property that require [quantity] the Residential Units to be rented to [specify] households for [duration] years (the “**Affordable Units,**” which are more specifically defined in Section 2).

C. This Regulatory Agreement establishes the terms and conditions which govern the operation of the Property.

NOW THEREFORE, IN CONSIDERATION of the promises, covenants and undertakings set forth in this Regulatory Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Agency covenant, declare and agree for themselves, their successors and assigns, as follows:

### **AGREEMENT**

1. **Recitals.** The above Recitals are true and accurate and incorporated herein.
2. **Definitions.** For purposes of this Regulatory Agreement, the terms listed below shall have the meanings thereafter specified:
  - a. **“Affordable Rent”** means gross monthly rent for each Affordable Unit, as defined in California Health and Safety Code section 50053(b) and accompanying HCD regulations, which includes a reasonable utility allowance. **[The following to be confirmed, revised, or deleted as applicable for each project:** For Extremely Low Income Households, Affordable Rent is not more than 30% times 30% of the area median income adjusted for household size appropriate for the Affordable Unit; Very Low Income Households, Affordable Rent is not more than 30% times 50% of area median income adjusted for household size appropriate for the Affordable Unit; Lower Income Households, Affordable Rent is not more than 30% times 60% of the area median income adjusted for family size appropriate for the Affordable Unit].
  - b. **“Affordable Units”** means the Project’s [quantity] Residential Units that will be offered exclusively at an Affordable Rent to [specify] Households, the [quantity] Residential Units that will be offered exclusively at an Affordable Rent to [specify] Households, and the [quantity] Residential Units that will be offered exclusively at an Affordable Rent to [specify] Households, pursuant to this Regulatory Agreement.
  - c. **[“Extremely Low Income Household”** means a household whose gross income does not exceed 30% of the median gross yearly income for Los Angeles County, California, adjusted for household size as published by HCD.]
  - d. **“HCD”** means the California Department of Housing and Community Development.
  - e. **“Funding Agreement”** has the meaning provided in Recital B.
  - f. **[“Lower Income Household”** means a household whose gross income does not exceed 80% of the median gross yearly income for Los Angeles County, California, adjusted for household size as published by HCD.]
  - g. **“Project”** means the construction, development, and operation of the [quantity] multifamily residential dwelling units on Property. The Project includes all required or associated on-site and off-site improvements, hardscape improvements, parking areas and landscaping improvements to the Property.
  - h. **“Property”** means that certain real property located within the City of Los

Angeles, County of Los Angeles, State of California, specifically described in the legal description attached as Exhibit A-1 and incorporated herein by reference.

i. **Project Records.** All books, records, statements, contracts and other records of Owner relating in any way to the use, occupancy or operation of the Affordable Units, including income certification forms completed by applicants or tenants of the Project.

j. **["Qualifying Household"]** means a household that: (1) intends to reside in one of the Affordable Units; and (2) whose income does not exceed the maximum allowable income for a [specify] Household, [specify] Household, or [specify] Household, as applicable to the Affordable Unit.]

k. **"Term"** means the period of [duration] years from the date that this Regulatory Agreement is recorded in the Official Records of Los Angeles County, California.

l. **["Very Low Income Household"]** means a household whose gross income does not exceed 50% of the median gross yearly income for Los Angeles County, California, adjusted for household size as published by HCD.]

3. **Agreement to Record.** Owner acknowledges and agrees that this Regulatory Agreement shall be recorded against the Property in the Official Records of Los Angeles County, California.

4. **Reservation of Units for Affordable Rental Housing.**

a. Owner covenants and agrees to reserve and restrict the Affordable Units for the Term for the use and residential occupancy of those who, at the time of initial occupancy and continuously thereafter (subject to the other provisions of this Regulatory Agreement), are members of a Qualifying Household.

b. Owner covenants and agrees, for the benefit of Agency, to develop, own, manage and operate, or cause the management and operation of, the Project to include the Affordable Units as residential rental housing occupied or available for occupancy to Qualifying Households at an Affordable Rent and for no other purposes.

c. Owner will not knowingly permit the Affordable Units to be used on a transient basis and will not lease or rent the Affordable Units for a period of less than 12 months. The Affordable Units will not, at any time, be leased or rented for use as a hotel, motel, time share, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitary or rest home.

5. **Affordable Rent.** The monthly rent charged to a Qualifying Household for the occupancy of an Affordable Unit may never exceed an Affordable Rent in accordance with this Regulatory Agreement.

a. **Rent Increases.** Rent for the Affordable Units may be increased only once in any 12 month period, based on changes in area median income; provided that the rent for the

Affordable Units shall never exceed an Affordable Rent for the Qualifying Household occupying the Affordable Unit. All rent increases must be provided to Qualifying Households in writing.

b. Determination of Household Income. Determination of Qualifying Household income shall be made by Owner at the time of initial application by an individual or family for occupancy of each of the Affordable Unit. At the time of initial application, Owner shall require an applicant to complete an income certification form and certify the accuracy of the information provided on such form. [Additionally, on the renewal of a lease for each Affordable Unit, or if the lease is for a term greater than 12 months on an annual basis, Owner shall require the Qualifying Household occupying the Affordable Unit to recertify the Qualifying Household's income on an income certification form approved by Agency].

c. Verification. Owner shall make a good faith effort to verify the accuracy of income information provided in any income certification form by an applicant for occupancy of the Affordable Unit or by a recertifying Qualifying Household occupying the Affordable Unit, by taking one or more of the following steps, as reasonably required or indicated:

- i. Obtain an income tax return and copy of each W2 Wage and Earnings Statement for the most recently concluded income tax year;
- ii. Contact a credit reporting agency or conduct a similar search;
- iii. Obtain an income verification form from the applicant's or the Qualifying Household's current employer(s);
- iv. Obtain an income verification form from the United States Social Security Administration or the California Department of Social Services, if the applicant or the Qualifying Household receives assistance from either of such agencies; or
- v. If the applicant or an adult member of a Qualifying Household is unemployed and has no such income tax return, obtain another form of independent verification.

d. Evidence. For purposes of this Section, Owner may conclusively rely upon the evidence of the age of a person as presented in a valid California Driver's License or other form of identification issued by the State of California or the United States Government that includes a date of birth and a photograph of the subject person. All such verification information shall only be obtained by Owner after obtaining the applicant's or the Qualifying Household's written consent for the release of such information to Owner. Failure to consent in writing to the release of such income verification information to Owner may disqualify an applicant for occupancy of an Affordable Unit or be grounds for termination of Qualifying Household's occupancy of an Affordable Unit.

e. Annual Report. On an annual basis during the Term, Owner shall submit to Agency a summary of the household income, number of residents, and monthly rent charged for each of the Affordable Units.

6. **Tenant Selection Policies and Criteria.** Owner shall adopt written tenant selection policies and criteria applicable to the Affordable Unit that:

- a. Are consistent with the purpose of providing affordable rental housing for Qualifying Households at an Affordable Rent;
- b. Are reasonably related to tenant eligibility and ability to perform the obligations of the lease for an Affordable Unit;
- c. Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;
- d. Give prompt written notice to any rejected applicant of the grounds for rejection;
- e. Provide for all of the Affordable Units to be available for occupancy on a continuous basis to Qualifying Households at an Affordable Rent;
- f. Do not give preference to any particular class or group of persons in leasing or renting the Affordable Unit except to the extent that a tenant must be a Qualifying Household;

The tenant selection policies and criteria prepared in accordance with this Section shall be subject to approval by Agency.

7. **Owner Covenant Regarding Lease of Affordable Units.** Owner, for itself, its successors, assignees and affiliates, covenants and agrees that, when the Affordable Units are rented or leased, the rental or lease of the Affordable Unit shall be accomplished through a written lease agreement and all of the following restrictions shall apply:

- a. Owner shall provide a legible copy of this Agreement to each prospective tenant of each Affordable Unit, prior to entering into a lease with such tenant.
- b. The leases for the Affordable Units shall expressly state that the leases are subject and subordinate to this Agreement and shall incorporate each and every provision of this Agreement, either expressly or by reference.
- c. Owner shall not lease an Affordable Unit to any occupant with any family relationship to Owner or who owns, directly or indirectly, any interest in the Project or the Property. For purposes of this section, 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.
- d. The lease for each Affordable Unit shall not contain any of the following provisions:

i. An agreement by the Qualifying Household to be sued, to admit guilt or to the entry of a judgment in favor of Owner in a lawsuit brought in connection with the lease;

ii. An agreement by the Qualifying Household that Owner may take, hold or sell personal property of any member(s) of the Qualifying Household, without notice to the Qualifying Household and a court decision on the respective rights of Owner and the member(s) of the Qualifying Household, other than an agreement by the Qualifying Household concerning disposition of personal property remaining in the Affordable Unit after the Qualifying Household has moved out of the Affordable Unit;

iii. An agreement by the Qualifying Household not to hold Owner or its agents legally responsible for any action or failure to act, whether intentional or negligent;

iv. An agreement by the Qualifying Household that Owner may institute a lawsuit, involving or affecting the Qualifying Household or any of the Qualifying Household's members, without notice to the Qualifying Household or any affected member;

v. An agreement by the Qualifying Household that Owner may evict the Qualifying Household or any of the Qualifying Household's members without instituting a civil court proceeding in which the Qualifying Household or any affected member of the Qualifying Household has an opportunity to present a defense, or before a court decision on the respective rights of Owner and the Qualifying Household or any affected member of the Qualifying Household;

vi. An agreement by the Qualifying Household to waive any right to a trial by jury;

vii. An agreement by the Qualifying Household to waive the Qualifying Household's right to appeal or to otherwise challenge a court decision in connection with the lease;

viii. An agreement by the Qualifying Household to pay attorney's fees or other legal costs, even if the Qualifying Household wins in a court proceeding by Owner against the Qualifying Household; provided, however, the Qualifying Household may be obligated to pay reasonable attorney's fees and other legal costs, if the Qualifying Household loses such a legal action;

ix. An agreement by the Qualifying Household to pay one or more security deposits (or the equivalent) totaling in excess of the amount of one month's rent for such Affordable Unit.

8. **Access to Common Amenities.** Occupants of the Affordable Units shall be provided the same rights and access to common amenities in the Project as occupants of the other Residential Units.

9. **Retention of Project Records.** Owner shall prepare and maintain complete and

accurate Project Records for so long as this Regulatory Agreement remains in effect. Owner shall, at all times following the initial lease of the Affordable Units, maintain, safe and intact, all of the Project Records for a period of not less than six years from the generation of such Project Records. From time to time, upon request from Agency, Owner shall make all Project Records, whether in the custody or control of Owner or its affiliates, available to Agency, Agency's auditor, representative or agent for examination and copying at any reasonable time, on 15 calendar days advance notice. Owner shall also provide Agency with any additional information concerning the Affordable Units, the Project or the Property reasonably requested by Agency.

10. **Continuous Operation Covenant.** Owner covenants and agrees to, for the benefit of Agency, cause the Project to be continuously operated in accordance with the provisions of this Regulatory Agreement for the length of the Term.

11. **Prohibition Against Discrimination.** Owner covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property, or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, source of income, age, marital status, physical or mental disability, medical condition, ancestry, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property.

12. **Indemnification.** Owner shall indemnify, defend and hold harmless Agency and all officials, employees, contractors, agents and volunteers of Agency (with counsel reasonably satisfactory to Agency) against any costs, liabilities, damages or judgments arising from claims or litigation of any nature whatsoever brought by third parties and directly or indirectly arising from Owner's ownership or operation of the Project, the Affordable Units, or Owner's performance of its obligations under this Regulatory Agreement, and in the event of settlement, compromise, or judgment hold Agency free and harmless therefrom. Notwithstanding the foregoing, the indemnity provisions contained in this Section 12 shall not apply with respect to any costs, liabilities, damages or judgments arising from the gross negligence or willful misconduct of Agency.

13. **Agency's Right to Inspect Affordable Units and Documents.** Agency may inspect the Affordable Units at any reasonable time for so long as this Regulatory Agreement remains in effect, to determine Owner's compliance with this Regulatory Agreement.

14. **Burden to Run with Land.**

a. The covenants and restrictions set forth herein are covenants running with the land and shall pass to and be binding upon all parties having any interest in the Project and/or the Property. Each and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Property or any interest therein, as the case may be (each a "**Contract**"), shall conclusively be held to have been executed, delivered and accepted subject to this Regulatory Agreement regardless of whether the other party or parties to such Contract have actual knowledge of this Regulatory Agreement.

b. All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of Agency and Qualifying Households and such covenants and restrictions shall run in favor of such parties for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether Agency is an owner of any land or interest therein to which such covenants and restrictions relate.

15. **Successors and Assigns.** This Regulatory Agreement shall be binding upon and inure to the benefit of Agency and Owner, and their respective permitted successors, owners and assigns.

16. **Notices.** All notices required herein shall be provided in accordance with the Funding Agreement.

17. **Insurance.** Owner will keep improvements now or existing hereunder erected on the Property insured in accordance with the Funding Agreement.

18. **Default.** The occurrence of any of the following shall constitute an “**Event of Default**” under this Regulatory Agreement:

a. Owner’s failure to make any payment when due of principal or interest under any promissory note made by Owner to Agency or Owner’s failure to perform any other obligation for the payment of money under any Funding Award Document (as defined under the Funding Agreement), provided such failure is not cured within 10 days after Agency gives Owner written notice of such failure;

b. Owner’s failure to perform any other obligation (other than obligations described in subparagraph (a), above) under this Regulatory Agreement, and such failure is not cured within 30 days after Agency gives Owner written notice that such obligation was not performed; provided that, if such cure cannot reasonably be effected with such 30 day period, such failure shall not be an Event of Default so long as Owner promptly (in any event, within 120 days after such notice is given) commences cure, and thereafter diligently prosecutes such cure to completion; or

c. Any representation or warranty in this Regulatory Agreement proves to have been incorrect in any material respect when made; or

d. Owner is dissolved, liquidated or terminated, and is not replaced by an entity acceptable to the Agency (which approval shall not unreasonably be withheld); or

e. Owner is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Owner applies or consents ‘to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Owner and the appointment continues undischarged or unstayed for 60 days; or Owner institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship,

liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Owner and continues undismissed or unstayed for 60 days; or

f. Any material default or event of default on the part of Owner occurs under any superior or inferior instrument or loan document affecting the Property following notice and an opportunity to cure as provided therein, including any other obligation of Owner to Agency, or under any other obligation to any other lender whose loan is secured by a lien encumbering the Property.

19. **Remedies.** Upon the occurrence of an Event of Default, Agency may:

a. Declare the entire sum of accrued interest and the then outstanding principal balance of any promissory note from Agency to Owner immediately due and payable.

b. Collect all rents, profits, income and charges in connection with the operation of the units in the Property and use the same, or the proceeds thereof, in such order as Agency may determine, toward satisfaction of Owner's obligations under this Regulatory Agreement, toward payment of obligations arising under any trust deeds superior to the Deed of Trust, and toward the necessary expenses of preserving and operating the Property.

c. Take possession of the Property, bring any action necessary to enforce any rights of Owner growing out of the operation of the Property, and operate the Property in accordance with the terms of this Regulatory Agreement and the Funding Agreement's Deeds of Trust, until such time as Agency, in its sole discretion, shall determine that Owner is again in a position to operate the Property in accordance with the terms of this Regulatory Agreement.

d. Apply to any court, State or Federal, for specific performance of this Regulatory Agreement; for an injunction against any violation by Owner of this Regulatory Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, or for such other relief as may be appropriate, including but not limited to, payment of the principal balance of the loan plus accrued interest thereon.

e. The remedies of Agency herein, or under any other instrument providing for or evidencing the financial assistance specified herein, are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of all remedies and shall not preclude the exercise by Agency of any one or more of its other remedies.

f. At Owner's request, Agency shall provide by mail copies of any notice of any violation to all other lien holders, at the address for notices most recently provided by Owner or such lien holders for such notices, and such parties shall have the same right to cure Owner's defaults hereunder on behalf of Owner.

20. **Governing Law.** The laws of the State of California shall govern this Regulatory Agreement. Any legal action brought under this Regulatory Agreement must be instituted in the Superior Court of the County of Los Angeles, State of California, or in Federal District Court in the Central District of California.

21. **Attorney's Fees.** In any action brought to declare the rights granted herein or to enforce or to interpret any of the terms of this Regulatory Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees in an amount determined by the court.

22. **No Agency Responsibility for Project.** Agency shall have no responsibility for the construction, installation, management, operation or maintenance of the Project.

23. **Entire Agreement; Amendment.** The text herein, including exhibits, constitutes the entire agreement between the Parties. Each Party acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein, and that any other agreement, statement or promise not contained in this Regulatory Agreement shall not be valid or binding. This Regulatory Agreement may be amended only by written instrument signed by both Agency and Owner.

24. **Non-Waiver.** Failure to exercise any right Agency may have or be entitled to, in the event of default hereunder shall not constitute a waiver of such right or any other right in the event of a subsequent default.

25. **Further Assurances and Recordation.** Owner shall execute any further documents consistent with the terms of this Regulatory Agreement, including documents in recordable form and do such further acts as may be necessary, desirable or proper as Agency shall from time to time find necessary or appropriate to effectuate its purpose in entering this Regulatory Agreement.

26. **Enforcement.** Agency shall have the power to enforce this Regulatory Agreement and no other person or entity shall have any right or power to enforce any provision of this Regulatory Agreement on behalf of Agency, or to compel Agency to enforce any provision of this Regulatory Agreement against Owner, the Project, the Property or any Residential Unit, including the Affordable Units.

27. **Severability.** If any term or provision of this Regulatory Agreement or its application to any person or circumstance shall to any extent be invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Regulatory Agreement, or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected by such invalidity. All remaining provisions of this Regulatory Agreement shall be valid and be enforced to the fullest extent allowed by law.

*[Signatures on following page]*

IN WITNESS WHEREOF, the parties have executed this Funding Agreement as of the dates set forth below.

**AGENCY:**

**Los Angeles County Affordable Housing Solutions  
Agency**

\_\_\_\_\_  
[insert], [title]

Date: [insert]

APPROVED AS TO FORM:

\_\_\_\_\_  
Best Best & Krieger LLP  
General Counsel

*[Signatures continue on following page.]*

**DRAFT**



**OWNER:**

[name]  
a [entity]

By:

By:

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

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

DRAFT



**EXHIBIT A-1**  
**PROPERTY DESCRIPTION FOR REGULATORY AGREEMENT**

Real property in the City of Los Angeles, County of Los Angeles, State of California, described as follows:

[insert]

APN: [insert]

DRAFT

**EXHIBIT E [To be confirmed]**

**INSURANCE REQUIREMENTS**

Until the final maturity associated with the Funding Award or the expiration of the Regulatory Agreement, whichever occurs later, and without limiting Borrower's indemnification of Agency and Consortium, Borrower shall provide and maintain at its own expense the following insurance coverages and provisions:

**A. Evidence of Coverage**

Prior to commencement of the term of the Funding Agreement, Borrower shall provide a certificate of insurance to Agency certifying that Borrower has obtained insurance coverage as required herein. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by Borrower upon request. This approval of insurance shall neither relieve nor decrease the liability of Borrower.

A periodic review/change of insurance requirements may be made every five years to ensure appropriate coverage by Agency standards is in place.

**B. Qualifying Insurers**

All policies shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-V, according to the current Best's Key Rating Guide, unless otherwise approved by Agency's Risk Manager.

**C. Notice of Cancellation**

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified Agency insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to Agency or Agency's designated agent.

**D. Insurance Required**

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000
  - i. Products/Completed Operations aggregate - \$1,000,000
  - ii. Personal Injury - \$1,000,000

iii. Abuse, Molestation, Sexual Actions, Assault and Battery - \$1,000,000  
(required if there is interaction with children or minors)

2. General liability coverage shall include:

- a. Premises and Operations
- b. Products/Completed
- c. Personal Injury liability
- d. Molestation, Sexual Actions, Assault and Battery (required if there is interaction with children or minors)
- e. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to Agency:

**Additional Insured Endorsements**, which shall read:

“Los Angeles County Affordable Housing Solutions Agency (LACAHSAs), and members of LACAHSAs’s Board of Directors, and the officers, agents, and employees of LACAHSAs, individually and collectively, as additional insureds.”

“Los Angeles Affordable Housing Solutions (Consortium), and members of Consortium’s Board of Directors, and the officers, agents, and employees of Consortium, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by LACAHSAs, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy.

4. Property Insurance:

- a. Borrower shall maintain sufficient property insurance on all improvements, buildings, facilities, real property interests and personal property (“Insured Property”) that Borrower owns, operates and/or controls related to the Project or the Property. The policy shall be written on a standard “all risk” basis, excluding earthquake. Flood insurance shall be required if the Property is located in a flood zone.

- b. Agency shall be named as a loss payee. The contract shall insure for not less than 100% of the actual value of the Insured Property.

5. Workers' Compensation and Employer's Liability Insurance (if applicable)

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than \$1,000,000 per occurrence.

**E. Special Provisions**

The following provisions shall apply to this Funding Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Borrower and any approval of said insurance by Agency or Agency's are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Borrower pursuant to this Funding Agreement, including but not limited to the provisions concerning indemnification.

2. Agency acknowledges that some insurance requirements contained in this Funding Agreement may be fulfilled by self-insurance on the part of Borrower. However, this shall not in any way limit liabilities assumed by Borrower under this Funding Agreement. Any self-insurance shall be approved in writing by Agency upon satisfactory evidence of financial capacity. Borrower's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Funding Agreement be contracted to a third party, or any of Property be offered for use by a third party, Borrower shall require each of its contractors or such third parties of any tier to carry the aforementioned coverages, or Borrower may insure such persons or entities under its own policies.

4. Agency reserves the right to withhold disbursements to Borrower, or declare the Borrower in default, in the event of material noncompliance with the insurance requirements outlined above.

**F. Waiver of Subrogation.**

Except as may be specifically provided for elsewhere in the Funding Agreement or hereinabove, Agency and Borrower hereby each mutually waive any and all rights of recovery from the other in event of damage to the Property of either caused by acts of God, perils of fire, lightning, and all other all-risk perils as defined in insurance policies and forms approved for use in the state of California. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

## EXHIBIT F

### **The Act and Measure A Construction Labor Requirements**

#### **The Act**

#### **Government Code, § 64720.5:**

- (a) Any construction or rehabilitation project receiving funding or financing from the agency, a measure proposed by the agency pursuant to subdivision (a) of section 64720, or a joint powers authority of which the agency is a member, including, but not limited to, a project with under 40 units, shall constitute a public work for which prevailing wages shall be paid for purposes of Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the Labor Code.
- (b) A project with 40 units or greater is eligible to receive funding or financing from the agency, a measure proposed by the agency pursuant to subdivision (a) of section 64720, or a joint powers authority of which the agency is a member, only if all construction and rehabilitation is subject to the City of Los Angeles Department of Public Works PLA. For purposes of this subdivision and subdivision (c), the number of units means the maximum number of units authorized in an entitlement granted by the land use permitting authority for the development project, regardless of whether construction or rehabilitation proceeds in phases or ownership is divided.
- (c) Notwithstanding subdivision (b), if a specific countywide project labor agreement is negotiated with mutual agreement between the Los Angeles/Orange Counties Building and Construction Trades Council and the Southern California Association of Nonprofit Housing and approved by the agency, then a project with 40 units or greater is eligible to receive funding or financing from the agency, a measure proposed by the agency pursuant to subdivision (a) of section 64720, or a joint powers authority of which the agency is a member, only if all construction and rehabilitation is subject to the specific countywide project labor agreement rather than the Department of Public Works PLA.
- (d) For purposes of this section, “project labor agreement” has the same meaning as in paragraph (1) of subdivision (b) of section 2500 of the Public Contract Code.
- (e) For purposes of this section, “Department of Public Works PLA” means the City of Los Angeles Department of Public Works Project Labor Agreement 2020-2030 with Los Angeles/Orange Counties Building and Construction Trades Council, effective August 25, 2021.

*(Added by Stats. 2022, Ch. 661, Sec. 1. (SB 679) Effective January 1, 2023.)*

*[continues on next page]*

## **Measure A**

### **Section 28 – Construction Work**

- A. It is the intent of this section to encourage the development of local job opportunities and career pathways into the building and construction trades, including but not limited to apprenticeship and pre-apprenticeship programs.
- B. Any construction or rehabilitation project receiving funding or financing from this Ordinance, including but not limited to a project of fewer than 40 units, shall constitute a public work for which prevailing wages shall be paid for purposes of Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the Labor Code.
- C. A project of 40 or more units is eligible to receive funding or financing from this Ordinance only if all construction and rehabilitation is subject to the City of Los Angeles Department of Public Works Project Labor Agreement 2020-2030 if the project is within the City of Los Angeles, or the Countywide Community Workforce Agreement executed by the Chief Executive Officer on June 7, 2023 if the project is elsewhere, or any successor to either agreement.
- D. For purposes of sections 28 and 29 of this Ordinance, the number of units means the maximum number of units authorized in an entitlement granted by the land use permitting authority for a development project, regardless of whether construction or rehabilitation proceeds in phases or project ownership is divided.
- E. The Designated Enforcement Agency (“DEA”) shall have authority to enforce Labor Code sections 1720-1815, as amended from time to time, for projects funded by the tax imposed by this Ordinance. Any developer, contractor, or subcontractor as to such projects shall be required to cooperate fully in any investigation the DEA initiates. For projects located in the City of Los Angeles, the DEA shall be the Department of Public Works, Bureau of Contract Administration. For projects elsewhere, the contracting Funding Recipient shall act as or designate the DEA. The DEA shall be authorized to work with joint labor management committees established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a) in order to carry out the enforcement/investigation duties under this Ordinance. A joint labor management committee may bring an action in any court of competent jurisdiction against an employer that fails to comply with the labor standards required under this Ordinance.
- F. Notwithstanding subsection C of this section, if a project labor agreement is agreed between the Funding Recipient or project developer, the Los Angeles/Orange Counties Building and Construction Trades Council, and the Western States Regional Council of Carpenters, then a project with 40 or more units is eligible to receive funding or financing from this Ordinance if all construction and rehabilitation is subject to that project labor agreement.
- G. For purposes of this Ordinance, “project labor agreement” has the meaning stated in subdivision (b)(1) of section 2500 of the Public Contract Code.

**EXHIBIT G**

**RENTAL SUBSIDY AGREEMENT**

[Begins on following page]

[Replace with “Reserved” if the Funding Award does not include a Rental Subsidy]

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**EXHIBIT H**

**PROJECT LEVEL TAX CERTIFICATE**

[Begins on following page]

[Replace with "Reserved" if the Project is not funded with Tax-Exempt Bonds]

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