

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: September 11, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, September 12, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, September 12, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, September 7, 2017, at 10:00 a.m., by the votes indicated.

Item No. 38 **File No. 170883**

Resolution authorizing the execution and delivery of a multifamily housing revenue note in one or more series in an aggregate principal amount not to exceed \$43,000,000 for the purpose of providing financing for the acquisition and construction of a 108-unit multifamily rental housing project known as "455 Fell Street Apartments;" approving the form of and authorizing the execution of a funding loan agreement providing the terms and conditions of the loan from the funding lender to the City and the execution and delivery of the note; approving the form of and authorizing the execution of a borrower loan agreement providing the terms and conditions of the loan from the City to the borrower; approving the form of and authorizing the execution of a regulatory agreement and declaration of restrictive covenants; authorizing the collection of certain fees; approving modifications, changes and additions to the documents; ratifying and approving any action heretofore taken in connection with the back-to-back loans, the note and the project; granting general authority to City officials to take actions necessary to implement this Resolution; and related matters, as defined herein.

RECOMMENDED AS COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Excused
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

File No. 170883

Committee Item No. 8
Board Item No. 38

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date September 7, 2017

Board of Supervisors Meeting

Date September 12, 2017

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Linda Wong Date September 1, 2017
 Completed by: Linda Wong Date September 11, 2017

1 [Multifamily Housing Revenue Note - 455 Fell Street ("455 Fell Street Apartments") - Not to
2 Exceed \$43,000,000]

3 **Resolution authorizing the execution and delivery of a multifamily housing revenue**
4 **note in one or more series in an aggregate principal amount not to exceed \$43,000,000**
5 **for the purpose of providing financing for the acquisition and construction of a 108-unit**
6 **multifamily rental housing project known as "455 Fell Street Apartments;" approving**
7 **the form of and authorizing the execution of a funding loan agreement providing the**
8 **terms and conditions of the loan from the funding lender to the City and the execution**
9 **and delivery of the note; approving the form of and authorizing the execution of a**
10 **borrower loan agreement providing the terms and conditions of the loan from the City**
11 **to the borrower; approving the form of and authorizing the execution of a regulatory**
12 **agreement and declaration of restrictive covenants; authorizing the collection of**
13 **certain fees; approving modifications, changes and additions to the documents;**
14 **ratifying and approving any action heretofore taken in connection with the back-to-**
15 **back loans, the note and the project; granting general authority to City officials to take**
16 **actions necessary to implement this Resolution; and related matters, as defined herein.**

17
18 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the
19 "Board") desires to provide for a portion of the costs of the acquisition and construction by 455
20 Fell, L.P., a California limited partnership (the "Borrower"), of a 108-unit residential rental
21 development, with 1,500 square feet of commercial space, located at 455 Fell Street, in San
22 Francisco, California, known as "455 Fell Street Apartments" (the "Project"), to provide
23 housing for persons and families of low income and very low income through the issuance of
24 multifamily housing revenue bonds or notes; and

1 WHEREAS, The City and County of San Francisco (the "City") is authorized to issue
2 revenue notes for such purpose pursuant to the Charter of the City, Article I of Chapter 43 of
3 the Administrative Code of the City and, to the extent applicable, Chapter 7 of Part 5 of
4 Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of
5 California ("Health and Safety Code"), as now in effect and as it may from time to time
6 hereafter be amended or supplemented (collectively, the "Act"); and

7 WHEREAS, The interest on the Note (hereinafter defined) may qualify for tax
8 exemption under Section 103 of the Internal Revenue Code of 1986, as amended, (the
9 "Code"), only if the Note is approved in accordance with Section 147(f) of the Code; and

10 WHEREAS, The Mayor's Office of Housing and Community Development held a duly
11 noticed public hearing on August 7, 2017 at which hearing an opportunity was provided for
12 persons to comment on the issuance of the Note; and

13 WHEREAS, The City now wishes to approve the execution and delivery of the Note in
14 order to satisfy the public approval requirements of Section 147(f) of the Code; and

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

16 WHEREAS, On May 17, 2017, the California Debt Limit Allocation Committee (CDLAC)
17 in its Resolution Number 17-54 allocated \$43,000,000 in qualified private activity obligations
18 to the Project; and

19 WHEREAS, There has been prepared and presented to the Board for consideration at
20 this meeting the documentation required for the execution and delivery of the Note, and such
21 documentation is on file with the Clerk of the Board of Supervisors (the "Clerk of the Board");
22 and

23 WHEREAS, It appears that each of the documents which is now before this Board is
24 substantially in appropriate form and is an appropriate instrument to be executed and
25 delivered for the purposes intended; and

1 WHEREAS, The Board finds that the public interest and necessity require that the City
2 at this time make arrangements for the funding loan, the borrower loan and the execution and
3 delivery of the Note; and

4 WHEREAS, The Note will be a limited obligation of the City, the sole source of
5 repayment of which shall be payments made by the Borrower under the Borrower Loan
6 Agreement (hereinafter defined), together with investment income of certain funds and
7 accounts held under the Funding Loan Agreement (hereinafter defined); and

8 WHEREAS, The City has engaged Squire Patton Boggs (US) LLP and Amira Jackmon
9 Attorney at Law, as co-special counsel with respect to the Note ("Co-Special Counsel"); and

10 WHEREAS, Bank of America, N.A. (or an affiliate thereof) (the "Funding Lender") has
11 expressed its intention to lend the City and County of San Francisco the funding loan in
12 exchange for the Note authorized hereby; now, therefore, be it

13 RESOLVED, By this Board of Supervisors of the City and County of San Francisco as
14 follows:

15 Section 1. Approval of Recitals. The Board hereby finds and declares that the above
16 recitals are true and correct.

17 Section 2. Approval of Execution and Delivery of Note. In accordance with the Act, the
18 Funding Loan Agreement (hereinafter defined) and the Borrower Loan Agreement (hereinafter
19 defined), the City is hereby authorized to execute and deliver notes in one or more series and
20 subseries, and designated as "City and County of San Francisco Multifamily Housing
21 Revenue Note (455 Fell Street Apartments), Series "2017D," or such other designation as
22 may be necessary or appropriate to distinguish such series from every other series of bonds
23 or notes, in an aggregate principal amount not to exceed \$43,000,000 (the "Note"), with an
24 interest rate not to exceed twelve percent (12%) per annum for the Note, and which shall have
25 a final maturity date not later than forty (40) years from the date of execution and delivery of

1 the Note. The Note shall be in the form set forth in and otherwise in accordance with the
2 Funding Loan Agreement (hereinafter defined) and shall be executed by the manual or
3 facsimile signature of the Mayor of the City (the "Mayor").

4 Section 3. Approval of Funding Loan Agreement. The Funding Loan Agreement (the
5 "Funding Loan Agreement") in the form presented to the Board, a copy of which is on file with
6 the Clerk of the Board, is hereby approved. The Funding Loan Agreement shall be entered
7 into by and among the City, the Funding Lender and a trust company, a state banking
8 corporation or a national banking association with the authority to accept trusts in the State of
9 California selected by the Director of the Mayor's Office of Housing and Community
10 Development (the "Director") and otherwise meeting the requirements of the Funding Loan
11 Agreement (the "Fiscal Agent"). Each of the Mayor, the Director, the Housing Development
12 Director of the Mayor's Office of Housing and Community Development or any other
13 Authorized Governmental Lender Representative (as such term is defined in the Funding
14 Loan Agreement) is hereby authorized to execute the Funding Loan Agreement, approved as
15 to form by the City Attorney of the City (the "City Attorney"), in substantially said form, together
16 with such additions thereto and changes therein as the City Attorney and Co-Special Counsel
17 may approve or recommend in accordance with Section 7 hereof.

18 Section 4. Approval of Borrower Loan Agreement. The Borrower Loan Agreement (the
19 "Borrower Loan Agreement") by and among the City, the Fiscal Agent and the Borrower, in
20 the form presented to the Board, a copy of which is on file with the Clerk of the Board, is
21 hereby approved. Each Authorized Governmental Lender Representative is hereby
22 authorized to execute the Borrower Loan Agreement in substantially said form, together with
23 such additions thereto and changes therein as the City Attorney and Co-Special Counsel may
24 approve or recommend in accordance with Section 7 hereof.

1 Section 5. Approval of Regulatory Agreement and Declaration of Restrictive
2 Covenants. The Regulatory Agreement and Declaration of Restrictive Covenants (the
3 “Regulatory Agreement” and, together with the Funding Loan Agreement and the Borrower
4 Loan Agreement, the “City Documents”), between the City, the Fiscal Agent and the Borrower,
5 in the form presented to the Board, a copy of which is on file with the Clerk of the Board, is
6 hereby approved. Each Authorized Governmental Lender Representative is hereby
7 authorized to execute the Regulatory Agreement, approved as to form by the City Attorney, in
8 substantially said form, together with such additions thereto and changes therein as the City
9 Attorney and Co-Special Counsel may approve or recommend in accordance with Section 7
10 hereof.

11 Section 6. Issuer Fees. The City, acting through the Mayor’s Office of Housing and
12 Community Development, shall charge a fee for the administrative costs associated with
13 executing and delivering the Note in an amount not to exceed 0.25% of the aggregate
14 principal amount of the Note. Such fee shall be payable at funding loan closing and may be
15 contingent on the funding loan closing. The City shall also charge an annual fee for
16 monitoring the restricted units in an amount not to exceed 0.125% of the outstanding
17 aggregate principal amount of the Note, but no less than \$2,500 annually, for the term of the
18 Regulatory Agreement. The initial monitoring fee shall be payable at funding loan closing.
19 The Board hereby authorizes the Mayor’s Office of Housing and Community Development to
20 charge and collect the fees described in this section.

21 Section 7. Modifications, Changes, Additions. Any Authorized Governmental Lender
22 Representative executing the City Agreements, in consultation with the City Attorney and Co-
23 Special Counsel, is hereby authorized to approve and make such modifications, changes or
24 additions to the City Agreements as may be necessary or advisable, provided that such
25 modification does not authorize an aggregate principal amount of the Note in excess of


1 \$43,000,000, provide for a final maturity of the Note later than forty (40) years, or provide for
2 the Note to bear interest at a rate in excess of twelve percent (12%) per annum. The approval
3 of any modification, addition or change to any of the aforementioned documents shall be
4 evidenced conclusively by the execution and delivery of the document in question.

5 Section 8. Ratification. All actions heretofore taken by the officers and agents of the
6 City with respect to the funding loan and the execution and delivery of the Note as consistent
7 with the City Documents are hereby approved, confirmed and ratified.

8 Section 9. General Authority. The proper officers of the City are hereby authorized
9 and directed, for and in the name and on behalf of the City, to do any and all things and take
10 any and all actions and execute and deliver any and all certificates, agreements (including
11 such agreements to provide adequate or additional security or indemnities as required by
12 lenders to consummate the financing) and other documents, including but not limited to those
13 documents described in the City Documents, which they, or any of them, may deem
14 necessary or advisable in order to consummate the lawful execution and delivery of the Note
15 and to effectuate the purposes thereof and of the City Documents. Any such actions are
16 solely intended to further the purposes of this Resolution, and are subject in all respects to the
17 terms of the Resolution. No such actions shall increase the risk to the City or require the City
18 to spend any resources not otherwise granted herein. Final versions of such documents shall
19 be provided to the Clerk of the Board for inclusion in the official file within 30 days of execution
20 by all parties.

1 Section 10. File. All documents referenced herein as being on file with the Clerk of the
2 Board are located in File No. 170883, which is hereby declared to be a part of this
3 Resolution as if set forth fully herein.
4

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA
7 City Attorney

8
9 By: 
10 HEIDI J. GEWERTZ
11 Deputy City Attorney
12 n:\financlas2017\1700542\01208288.docx
13
14
15
16
17
18
19
20
21
22
23
24
25

FUNDING LOAN AGREEMENT

Among

**BANK OF AMERICA, N.A.,
as Funding Lender**

**CITY AND COUNTY OF SAN FRANCISCO,
as Governmental Lender**

and

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

Dated as of [October 1, 2017]

**CITY AND COUNTY OF SAN FRANCISCO
MULTIFAMILY HOUSING REVENUE NOTE
(455 FELL STREET APARTMENTS), SERIES 2017 []
\$[PAR]**

TABLE OF CONTENTS

	Page
ARTICLE I	
DEFINITIONS; PRINCIPLES OF CONSTRUCTION	
Section 1.1.	Definitions.....2
Section 1.2.	Effect of Headings and Table of Contents12
Section 1.3.	Date of Funding Loan Agreement.....13
Section 1.4.	Designation of Time for Performance.....13
Section 1.5.	Interpretation.....13
ARTICLE II	
TERMS; GOVERNMENTAL LENDER NOTE	
Section 2.1.	Terms13
Section 2.2.	Form of the Governmental Lender Note15
Section 2.3.	Execution and Delivery of the Governmental Lender Note.....15
Section 2.4.	Required Transferee Representations; Participations; Sale and Assignment.....16
Section 2.5.	Assignment of Borrower Loan and Cancellation of Funding Loan16
ARTICLE III	
PREPAYMENT	
Section 3.1.	Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note.....18
Section 3.2.	Notice of Prepayment.....18
ARTICLE IV	
SECURITY	
Section 4.1.	Security for the Funding Loan19
Section 4.2.	Delivery of Security20
ARTICLE V	
LIMITED LIABILITY	
Section 5.1.	Source of Payment of Funding Loan and Other Obligations20
Section 5.2.	Exempt from Individual Liability21
ARTICLE VI	
CLOSING CONDITIONS; APPLICATION OF FUNDS	
Section 6.1.	Conditions Precedent to Closing.....21
ARTICLE VII	
FUNDS AND ACCOUNTS	
Section 7.1.	Authorization to Create Funds and Accounts22
Section 7.2.	Reserved.....22
Section 7.3.	Establishment of Funds.....22
Section 7.4.	Funding Loan Payment Fund.....22
Section 7.5.	Expense Fund.....23
Section 7.6.	Closing Costs Fund23

Section 7.7.	Project Fund	24
Section 7.8.	Rebate Fund	25
Section 7.9.	Investments	25

ARTICLE VIII
REPRESENTATIONS AND COVENANTS

Section 8.1.	General Representations	26
Section 8.2.	No Encumbrance on Security	27
Section 8.3.	Repayment of Funding Loan.....	27
Section 8.4.	The Servicer	27
Section 8.5.	Borrower Loan Agreement Performance	27
Section 8.6.	Maintenance of Records; Inspection of Records	27
Section 8.7.	Tax Covenants.....	28
Section 8.8.	Performance by the Borrower	29

ARTICLE IX
DEFAULT; REMEDIES

Section 9.1.	Events of Default	29
Section 9.2.	Acceleration of Maturity; Rescission and Annulment	29
Section 9.3.	Additional Remedies; the Funding Lender Enforcement.....	30
Section 9.4.	Application of Money Collected.....	31
Section 9.5.	Remedies Vested in the Funding Lender	32
Section 9.6.	Restoration of Positions	32
Section 9.7.	Rights and Remedies Cumulative	32
Section 9.8.	Delay or Omission Not Waiver.....	32
Section 9.9.	Waiver of Past Defaults	32
Section 9.10.	Remedies Under the Borrower Loan Agreement or the Borrower Note.....	32
Section 9.11.	Waiver of Appraisalment and Other Laws.....	33
Section 9.12.	Suits to Protect the Security	33
Section 9.13.	Remedies Subject to Applicable Law	33
Section 9.14.	Assumption of Obligations	33

ARTICLE X
AMENDMENT; AMENDMENT OF THE BORROWER LOAN AGREEMENT AND OTHER
DOCUMENTS

Section 10.1.	Amendment of Funding Loan Agreement	34
Section 10.2.	Amendments Require the Funding Lender Consent	34
Section 10.3.	Consents and Opinions.....	34

ARTICLE XI
THE FISCAL AGENT

Section 11.1.	Appointment of the Fiscal Agent; Acceptance	34
Section 11.2.	Certain Duties and Responsibilities of the Fiscal Agent.....	34
Section 11.3.	Notice of Defaults	35
Section 11.4.	Certain Rights of the Fiscal Agent.....	36
Section 11.5.	Not Responsible for Recitals.....	37
Section 11.6.	May Hold Funding Loan.....	37
Section 11.7.	Moneys Held in Trust	37
Section 11.8.	Compensation and Reimbursement.....	37

Section 11.9.	The Fiscal Agent Required; Eligibility	38
Section 11.10.	Resignation and Removal; Appointment of Successor	38
Section 11.11.	Acceptance of Appointment by Successor.....	39
Section 11.12.	Merger, Conversion, Consolidation or Succession to Business.....	39
Section 11.13.	Appointment of Co-Fiscal Agent	39
Section 11.14.	Loan Servicing	40
Section 11.15.	No Recourse Against Officers or Employees of Fiscal Agent.....	40
Section 11.16.	City Contracting Provisions	40

ARTICLE XII
MISCELLANEOUS

Section 12.1.	Notices	40
Section 12.2.	Term of Funding Loan Agreement	42
Section 12.3.	Successors and Assigns.....	42
Section 12.4.	Legal Holidays	42
Section 12.5.	Governing Law	42
Section 12.6.	Severability	42
Section 12.7.	Execution in Several Counterparts.....	42
Section 12.8.	Nonrecourse Obligation of the Borrower.....	42
Section 12.9.	Electronic Transactions.....	42

EXHIBIT A	FORM OF GOVERNMENTAL LENDER NOTE	A-1
EXHIBIT B	FORM OF REQUIRED TRANSFEREE REPRESENTATIONS (FUNDING LOAN).....	B-1
EXHIBIT B	FORM OF REQUIRED TRANSFEREE REPRESENTATIONS (BORROWER LOAN)	B-2
EXHIBIT C	FORM OF WRITTEN REQUISITION (PROJECT FUND)	C-1
EXHIBIT D	CLOSING COSTS REQUISITION.....	D-1
EXHIBIT E	INITIAL DEPOSITS AT CLOSING	E-1
EXHIBIT F	CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS	F-1

FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of [October 1, 2017] (this "Funding Loan Agreement"), is entered into by **BANK OF AMERICA N.A.**, a national banking association (together with any successor hereunder, the "Funding Lender"), **[FISCAL AGENT]** (together with any successor or assign, the "Fiscal Agent") and the **CITY AND COUNTY OF SAN FRANCISCO**, a public body corporate and politic, organized and existing under the laws of the State of **California** (together with its successors and assigns, the "Governmental Lender").

RECITALS

WHEREAS, the Governmental Lender is authorized to provide financing for multifamily rental housing pursuant to and in accordance with the Charter of the City and County of San Francisco, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended (the "Act").

WHEREAS, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the City and County of San Francisco (the "City") and intended to be occupied, in whole or in part by persons of low and moderate income; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, Prepayment Premium, if any, on and interest on such indebtedness of the Governmental Lender; and

WHEREAS, 455 Fell, L.P., a California limited partnership (the "Borrower"), has requested the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender (i) will advance funds (the "Funding Loan") to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the "Borrower Loan") to the Borrower to finance the acquisition, construction, development, equipping and/or operation of a multifamily residential rental housing development located within the City, known as 455 Fell Street Apartments (the "Project"); and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender, the Fiscal Agent and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the "Borrower Loan Agreement"), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Promissory Note dated the Closing Date (the "Borrower Note") and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project pursuant to a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith (as amended, restated and/or supplemented from time to time, the "Security Instrument"), made by the Borrower in favor of the Governmental Lender, and assigned to the Funding Lender, to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Note dated as of the Closing Date (the "Governmental Lender Note") evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make this Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized;

WHEREAS, the Governmental Lender is entering into this Funding Loan Agreement and the Borrower Loan Agreement solely as a "conduit issuer" and the Funding Loan and the Governmental Lender Note will be limited obligations of the Governmental Lender as described in Section 5.1 hereof.

WHEREAS, the Fiscal Agent has the power and authority to enter into this Funding Loan Agreement, including corporate trust powers to accept the trusts hereunder and to accept and assume its other responsibilities hereunder as Fiscal Agent as evidenced by its execution of this Funding Loan Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants."

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP. All references herein to "GAAP" refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as “tax exempt” or to the “tax exempt status” of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

“Act” shall have the meaning assigned to such term in the recitals above.

“Additional Borrower Payments” shall have the meaning given such term in the Borrower Loan Agreement.

“Affiliate” shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“Approved Transferee” means (1) a "qualified institutional buyer" (“QIB”) as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the "Securities Act") that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (2) an affiliate of the Funding Lender, (3) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned only by QIBs, (4) CCRC, or (5) a nonprofit corporation or nonprofit organization, all of whose shareholders or members are QIBs, and which invests in obligations of the same type as the Funding Loan Note as a principal aspect of its business.

“Authorized Amount” shall mean \$[PAR], the maximum principal amount of the Funding Loan under this Funding Loan Agreement.

“Authorized Governmental Lender Representative” shall mean (a) when used with respect to the Governmental Lender, the Mayor, the Director of the Mayor’s Office of Housing and Community Development, the Director of Housing Development and the Deputy Director of the Mayor’s Office of Housing and Community Development of the Governmental Lender and such additional Person or Persons, if any, duly designated by the Governmental Lender in writing to act on its behalf, as evidenced by a written certificate furnished to the Funding Lender, the Fiscal Agent and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative, which certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative; (b) when used with respect to the Borrower, any general partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Fiscal Agent, any authorized signatory of the Fiscal Agent, or any Person who is authorized in writing to take the action in question on behalf of the Fiscal Agent, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, (e) when used with respect to the Funding Lender Representative, any Person who is authorized in writing to take the action in question on behalf of the Funding Lender Representative, and (f) when used with respect to MOHCD, any Person authorized to act on behalf of MOHCD under the MOHCD Loan Agreement.

“Borrower” shall mean 455 Fell, L.P., a California limited partnership, and its successors and assigns.

“Borrower Controlling Entity” shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower.

“Borrower Equity Account” means the Borrower Equity Account of the Project Fund established under Section 7.3 hereof.

“Borrower Loan” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“Borrower Loan Agreement” shall mean the Borrower Loan Agreement, of even date herewith, among the Governmental Lender, the Fiscal Agent and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

“Borrower Loan Agreement Default” shall mean any “Event of Default” as set forth in Section 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

“Borrower Loan Amount” shall mean the Authorized Amount, the maximum principal amount of the Borrower Loan under the Borrower Loan Agreement.

“Borrower Loan Documents” shall have the meaning given such term in the Borrower Loan Agreement.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Loan Purchase Option” shall have the meaning given such term in Section [1.6] of the Loan Purchase Agreement.

“Borrower Note” shall have the meaning given such term in the Borrower Loan Agreement.

“Borrower Required Equity” shall have the meaning given such term in the Borrower Loan Agreement.

“Business Day” shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York or the city where the Fiscal Agent is located are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Capitalized Interest Account” means the Capitalized Interest Account of the Project Fund established under Section 7.3 hereof.

“CCRC” shall mean (a) California Community Reinvestment Corporation or (b) one of the following entities, pursuant to an assignment by California Community Reinvestment Corporation of its rights under the Bond Purchase Agreement: (1) Fannie Mae or Freddie Mac, (2) a member bank of California Community Reinvestment Corporation or (3) a fund established and managed by California Community Reinvestment Corporation (or by a single member limited liability company in which California Community Reinvestment Corporation is the sole member) and in which all of the investors in such fund are banks, insurance companies or other financial institutions (or affiliates of such entities) and each of which is a Sophisticated Investor with net assets of not less than \$5 billion. “Closing Costs Fund” shall mean the fund of that name established under Section 7.3(d) hereof.

“Closing Date” shall mean [CLOSING DATE], the date that initial Funding Loan proceeds are disbursed hereunder.

“Code” shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Completion Deadline” shall have the meaning given such term in the Construction Disbursement Agreement.

“Conditions to Conversion” shall have the meaning given such term in the Construction Disbursement Agreement.

“Construction Disbursement Agreement” means that certain Construction Disbursement Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and the Borrower, pursuant to how the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

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

“Conversion Date” means the date on which the registered owner of the Funding Loan Note becomes CCRC by reason of the assignment of the Funding Loan Note and the Borrower Loan Documents from the Initial Funding Lender to CCRC on such date.

“Costs of Funding” shall have the meaning given such term in the Borrower Loan Agreement.

“Costs of Funding Deposit” shall have the meaning given such term in the Borrower Loan Agreement.

“Default” shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document.

“Draw-Down Notice” shall mean a notice described in Section 2.1 hereof regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Equity Contributions” shall have the meaning given such term in the Borrower Loan Agreement.

“Event of Default” shall have the meaning ascribed thereto in Section 9.1 hereof.

“Expense Fund” shall mean the fund of that name established under Section 7.3(c) hereof.

“Fiscal Agent” shall mean [FISCAL AGENT], as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

“Fiscal Agent Fee” shall mean the annual fee of the Fiscal Agent in the amount of [Fiscal Agent Fee] annually, payable in equal semiannual installments in advance by the Borrower to the Fiscal Agent on each January 1 and July 1, commencing on the Closing Date;

“Fitch” shall mean Fitch, Inc.

“Funding Lender” shall mean (a) initially, Bank of America, N.A., a national banking association, (b) on and after the Conversion Date, CCRC, and (c) any successor under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan Agreement” shall mean this Funding Loan Agreement, of even date herewith, by and among the Funding Lender, the Fiscal Agent and the Governmental Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall mean this Funding Loan Agreement, the Borrower Loan Documents, the Regulatory Agreement, the Tax Certificate, all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and all amendments, modifications, renewals and substitutions of any of the foregoing.

“Funding Loan Payment Fund” shall mean the fund of that name established under Section 7.3(a) hereof.

“Government Obligations” shall mean noncallable, nonprepayable (i) direct, general obligations of the United States of America, or (ii) any obligations unconditionally guaranteed as to the full and timely payment of all amounts due thereunder by the full faith and credit of the United States of America (including obligations held in book entry form), but specifically excluding any mutual funds or unit investment trusts invested in such obligations.

“Governmental Lender” shall mean the City and County of San Francisco and its successors and assigns.

“Governmental Lender Note” shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

“Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by each Rating Agency in the highest rating category given by that Rating Agency for that general category of security. If at any time the Governmental Lender Note is not rated (and, consequently, there is no Rating Agency), then the term “Highest Rating Category” means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three (3) months or less and “Aaa” for greater than three (3) months. If at any time (i) the Governmental Lender Note is not rated, (ii) both S&P and Moody’s rate a Permitted Investment and (iii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that Rating Agency, then the Permitted Investment will be deemed to be rated below the

Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“Initial Funding Lender” shall mean Bank of America, N.A., a national banking association, as CCRC’s seller under the Loan Purchase Agreement, or any of its successors or assigns under the Loan Purchase Agreement.

“Loan Purchase Agreement” shall mean the Loan Purchase Agreement dated as of [October 1, 2017], among the Borrower, Initial Funding Lender and CCRC, pursuant to which and subject to the terms and conditions therein, CCRC has agreed to purchase up to [\$Amount] principal amount of the Funding Loan on the Conversion Date.

“Maturity Date” shall mean [MATURITY DATE].

“Maximum Rate” shall mean the lesser of (i) twelve percent (12%) per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

“Minimum Beneficial Ownership Amount” shall mean an amount no less than [_____ percent (___%)] of the outstanding principal amount of the Funding Loan.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Note Proceeds Account” means the Note Proceeds Account of the Project Fund established under Section 7.3 hereof.

“Noteowner” or “owner of the Governmental Lender Note” means the owner, or as applicable, collectively the owners, of the Governmental Lender Note as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.4(d) hereof.

“Ongoing Governmental Lender Fee” shall mean the annual administrative fee of the Governmental Lender due and payable by the Borrower pursuant to [Section ___] of the Regulatory Agreement.

“Opinion of Counsel” shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Permitted Investments” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement:

- (1) direct and general obligations of the United States of America;
- (2) obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are fully unconditionally guaranteed by the full faith and credit of the United States of America;
- (3) senior debt obligations of CCRC;

(4) demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the Fiscal Agent or such other institution has been rated at least "VMIG-1"/"A-1+" by Moody's or S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency;

(5) shares or units in any money market mutual fund rated "Aaa"/"AAA" by Moody's or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Fiscal Agent or its affiliates or for which the Fiscal Agent or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of (A) direct obligations of the government of the United States of America, or (B) tax-exempt obligations;

(6)(i) tax-exempt obligations rated in the highest short-term rating category by Moody's or S&P, or (ii) shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of "Aaa"/"AAA" by Moody's or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security), for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Fiscal Agent or its affiliates receive a fee for investment advisory or other services to the fund;

(7) the [Pooled Investment Fund] of the City and County of San Francisco; or

(8) any other investments approved in writing by the Funding Lender Representative with the written consent of the Governmental Lender.

For purposes of this definition, the "highest rating" shall mean a rating of at least "VMIG-1"/"A-1+" for obligations with less than one year maturity; at least "Aaa"/"VMIG-1"/"AAA"/"A-1+" for obligations with a maturity of one year or greater but less than three years; and at least "Aaa"/"AAA" for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

"Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Pledged Revenues" shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Borrower Loan, the

Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon (except any amounts on deposit in the Expense Fund, the Rebate Fund and Closing Costs Fund).

“Prepayment Premium” shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any Prepayment Premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“Potential Default” shall mean the occurrence of an event which, under the Borrower Loan Agreement, would, but for the giving of notice of passage of time, be an Event of Default.

“Project” shall have the meaning given such term in the Borrower Loan Agreement.

“Project Fund” shall mean the fund of that name established under Section 7.3(b) hereof.

“Purchase Date” means the date on which CCRC purchases the Funding Loan from the Initial Funding Lender upon satisfaction of the conditions set forth in the Loan Purchase Agreement.

“Qualified Financial Institution” shall mean any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, savings and loan association, or insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Funding Lender the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) other entity which is acceptable to the Funding Lender. With respect to an entity which provides an agreement held by the Fiscal Agent for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

“Qualified Project Costs” shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Regulations, provided, however, that only such portion of the interest accrued during rehabilitation or construction of the Project (in the case of rehabilitation, with respect to vacated units only) shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction or rehabilitation of the Project; and provided further that interest accruing after the Completion Date shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed or rehabilitated by an Affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing or rehabilitating the Project (or any portion thereof) and (B) any

overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include; for example, intercompany profits resulting from members of an “affiliated group” (within the meaning of Section 1504 of the Code) participating in the rehabilitation or construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of sixty (60) days prior to June 7, 2016, being the date on which the Governmental Lender first declared its “official intent” to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Regulations) or the date of issue of the Funding Loan, and (iv) if the costs of the acquisition and construction or rehabilitation of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) “preliminary expenditures” (within the meaning of Section 1.150-2(f)(2) of the Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Funding Loan (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditures is paid); provided, however, that (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, any Developer Fee) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Project Costs.

“Rating Agency” shall mean any one and each of S&P, Moody’s and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments, which has been approved by the Funding Lender.

“Rebate Amount” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” shall mean the rebate analyst selected by the Borrower prior to the Closing Date and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be [Initial Rebate Analyst].

“Rebate Analyst’s Fee” shall mean the annual fee of the Rebate Analyst in the amount of [\$Rebate Analyst Fee]. The Rebate Analyst’s Fee is payable by the Borrower to the Rebate Analyst, commencing Date], every fifth (5th) anniversary thereof, and the Maturity Date or the date the Funding Loan is retired in full.

“Rebate Fund” shall mean the fund of that name established under Section 7.3(e) hereof.

“Regulations” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” shall mean that certain Regulatory Agreement, dated as of the date hereof, by and between the Governmental Lender and the Borrower, as hereafter amended or modified.

“Required Transferee Representations” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“Resolution” shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“Responsible Officer” shall mean any officer within the corporate services department (or any successor group) of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

“Second Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by each Rating Agency in the second highest rating category given by that Rating Agency for that general category of security. If at any time the Governmental Lender Note is not rated (and, consequently, there is no Rating Agency), then the term “Second Highest Rating Category” means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax exempt municipal debt established by S&P is “AA” for a term greater than one (1) year, with corresponding ratings by Moody’s of “Aa.” If at any time (i) the Governmental Lender Note is not rated, (ii) both S&P and Moody’s rate a Permitted Investment and (iii) one of those ratings is below the Second Highest Rating Category, then such Permitted Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated “AA” by S&P and “A” by Moody’s is not rated in the Second Highest Rating Category.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security” shall mean the security for the performance by the Governmental Lender of its obligations under the Governmental Lender Note and this Funding Loan Agreement as more fully set forth in Article IV hereof.

“Security Instrument” shall mean the Deed of Trust Assignment of Leases and Rents Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“Servicer” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“Servicing Agreement” shall mean any servicing agreement entered into between the Funding Lender and the Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“Stabilization Date” shall have the meaning given such term in the Construction Disbursement Agreement.

“Stabilization Deadline” shall have the meaning given such term in the Construction Disbursement Agreement.

“Standard & Poor’s” or “S&P” shall mean Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business division, or its successors.

“State” shall mean the State of California.

“Supplemental Loan Agreement” means that certain Supplemental Loan Agreement dated as of [DATE, 2017] between Borrower and CCRC.

“Tax Certificate” shall mean the Tax Certificate and Agreement executed by the Governmental Lender, the Fiscal Agent and the Borrower on the Delivery Date.

“Tax Counsel” shall mean (a) on the Delivery Date, the law firm or law firms delivering the approving opinion(s) with respect to the Governmental Lender Note, or (b) any other firm of attorneys selected by the Governmental Lender that is experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer’s Municipal Marketplace.

“Tax Counsel Approving Opinion” shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Tax Counsel No Adverse Effect Opinion” shall mean an opinion of Tax Counsel to the effect that the taking of the action specified therein will not, in and of itself, adversely affect the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall mean all of the rights of the Governmental Lender and its directors, officers, commissioners, elected officials, attorneys, accountants, employees, agents and consultants under the Financing Documents: (a) (i) to be held harmless and indemnified, (ii) to be paid its fees and expenses and the Rebatable Arbitrage pursuant to Section 8.7 hereof, (iii) to give or withhold consent to amendments, changes, modifications and alterations, (iv) to have access to the Project and Project records, and (v) to receive notices; (b) the Governmental Lender’s rights under the Regulatory Agreement, including but not limited to, rights to reimbursement and payment of its fees, costs and expenses; and (c) the right to enforce all of the foregoing, subject to Section 7.2.10 of the Borrower Loan Agreement.

“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition” shall mean a written certificate, direction, notice, order, request or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative, an authorized representative of the Servicer, an authorized representative of the Fiscal Agent or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent, the Governmental Lender or such other Person as required under the Funding Loan Documents.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II

TERMS; GOVERNMENTAL LENDER NOTE

Section 2.1. Terms.

(a) Principal Amount. The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) Draw-Down Funding. The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender directly to the Fiscal Agent for the account of the Governmental Lender for disbursement to the Borrower as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Disbursement Agreement. Upon each advance of principal under the Borrower Loan Agreement and the Construction Disbursement Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial advance of [Initial Advance]. Subject to the terms and conditions of the Borrower Loan Agreement, the Funding Lender agrees to advance, on behalf of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower under the Borrower Loan Agreement at least \$51,000 on the Closing Date, and the Funding Lender agrees to correspondingly and simultaneously advance for the account of the Governmental Lender under this Funding Loan Agreement an equal amount as an advance on the Funding Loan. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after December 31, 2020; provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion.

(c) Early Draw-Down Event. Notwithstanding any provision herein to the contrary, in the event that the Funding Lender or the Borrower (each an "Interested Party") determines in good faith that legislative, judicial or other developments have occurred or other circumstances have emerged which could result in interest on installments of the Funding Loan which have not been drawn to date (the "Remaining Authorized Amount"), not being tax-exempt, or otherwise determines that it is in its best interest to convert the Funding Loan into a fully funded obligation of the Governmental Lender in order to assure that interest on the Governmental Lender Note will remain tax-exempt, and, in the case of such determination by the Borrower, such action will resolve the uncertainty with respect to the tax-exempt status of the Governmental Lender Note and will not jeopardize receipt of previously committed unfunded debt or

Equity Contributions for the Project, then such Interested Party may provide a Written Direction (a "Draw-Down Notice") to the other Interested Party and the Fiscal Agent as provided herein to cause the Remaining Authorized Amount of the Funding Loan to be funded. The Draw-Down Notice, if given, shall take effect on the fifth (5th) Business Day following the date (or such greater number of Business Days to which the Borrower and the Funding Lender may agree in writing, with Written Notice to the Fiscal Agent) on which either the Borrower or the Funding Lender sends Written Notice to the other Interested Party referencing the Draw-Down Notice and containing substantially the following words: "The [Borrower/Funding Lender] elects to [draw/fund] the Remaining Authorized Amount of the Funding Loan (\$_____) effective _____ (the "Draw-Down Date")." The Draw-Down Notice will be delivered in the manner provided for notices hereunder and the Borrower Loan Agreement.

Promptly after receipt of a Draw-Down Notice, the Funding Lender shall advance proceeds of the Funding Loan in the Remaining Authorized Amount (the "Remaining Funding Loan Proceeds") into the Note Proceeds Account of the Project Fund to be held for disbursements to the Borrower pursuant to the Funding Loan Documents. The advance of the Remaining Funding Loan Proceeds shall be treated as an advance of the full remaining principal under this Funding Loan Agreement, and a like amount of the Borrower Loan shall be deemed concurrently and simultaneously advanced under the Borrower Loan Agreement and the Governmental Lender Note shall be deemed to have been issued in the full Authorized Amount against payment by the Funding Lender (taking into account amounts of the Funding Loan previously funded) of the purchase price equal to the Remaining Authorized Amount.

If not otherwise accounted for in the Funding Loan Documents as confirmed in writing by the Funding Lender, the Borrower agrees to pay to the Fiscal Agent on the Draw-Down Date for deposit into the Capitalized Interest Account of the Project Fund, an amount of funds to be agreed upon by the Funding Lender and the Borrower prior to the Draw-Down Date to cover the expected interest due on the Funding Loan as a result of the Draw-Down Notice for the period between the Draw-Down Date and the date of each expected draw in accordance with the then-approved draw schedule under the Funding Loan Documents (the "Additional Interest Deposit"). The Borrower agrees to pay to the Fiscal Agent to be held hereunder, any amounts necessary to enable the Governmental Lender to pay when due, all amounts due with respect to the Funding Loan, to the extent payments made or required to be made under the Borrower Loan Agreement and the Borrower Note are insufficient for such purpose.

(d) Origination Date; Maturity. The Funding Loan shall be originated on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(e) Principal. The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement and the Construction Disbursement Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Note previously received upon payment of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (e) and in paragraphs (f) and (g) of this Section 2.1.

The Fiscal Agent shall keep a record of all principal advances and principal repayments made under the Governmental Lender Note and shall, upon Written Request, provide the Governmental Lender and the Funding Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(f) Interest. Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(g) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due on the Borrower Note shall be deemed to be like payments or prepayments of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note. The Funding Lender agrees to provide copies of the final Borrower Note and any amendments thereto, as well as the Debt Service Schedule (as defined in Section 2.4(b) of the Borrower Loan Agreement) to the Fiscal Agent on the Closing Date, if applicable, or on the date an amendment to the Borrower Note or Debt Service Schedule is executed or finalized, as applicable.

(h) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of the Governmental Lender Note. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement.

Section 2.3. Execution and Delivery of the Governmental Lender Note. The Governmental Lender Note shall be in substantially the form attached as Exhibit A. The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual signature of an Authorized Officer of the Governmental Lender. The signatures of individuals who were the proper officers of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individuals

or any of them shall have ceased to hold such offices prior to the delivery of the Governmental Lender Note or shall not have held such offices at the date of the Governmental Lender Note.

Section 2.4. Required Transferee Representations; Participations; Sale and Assignment.

(a) The Governmental Lender Note shall be fully registered as to principal and interest in the manner and with any additional designation as the Fiscal Agent deems necessary for the purpose of identifying the registered owner thereof. The Governmental Lender Note shall be transferable only on the registration books of the Fiscal Agent. The Fiscal Agent shall maintain books or other records showing the name and date of registration, address and employer identification number of the registered owner of the Governmental Lender Note, and any transfers of the Governmental Lender Note, as provided herein, which books shall be maintained by the Fiscal Agent for such purpose consistent with the registration requirements of the Code applicable to tax-exempt obligations and which shall be open to inspection by the Governmental Lender. The Governmental Lender Note shall initially be registered to the Initial Funding Lender, upon the Conversion Date shall be registered to the Initial Funding Lender, and upon the Purchase Date, shall be registered to CCRC.

(b) The Funding Lender may not sell or assign the Funding Loan and the Governmental Lender Note, except in whole to a transferee who agrees to become the "Funding Lender" under the Funding Loan Documents and assume all of the obligations and perform all of the duties of the Funding Lender thereunder, but the Funding Lender shall have the right to sell participation interests in the Funding Loan or to grant a participation interest in the Funding Loan in a percentage of not less than twenty percent (20%) of the outstanding principal amount of the Funding Loan; provided that no participant shall hold more than fifty percent (50%) of the outstanding principal amount of the Funding Loan; provided that the Funding Loan may be transferred, or any participation interest therein granted, only to an Approved Transferee that delivers a letter to the Governmental Lender and the Fiscal Agent substantially in the form attached hereto as **Exhibit B** setting forth certain representations with respect to such Approved Transferee (the "Required Transferee Representations"). Notwithstanding the preceding sentence, no Required Transferee Representations shall be required for the Funding Lender Representative to (i) transfer the Funding Loan to any affiliate or other party related to the Funding Lender that is an Approved Transferee or (ii) sell or transfer the Funding Loan to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Funding Loan or securitized interests therein are not expected to be sold or transferred except to (x) owners or beneficial owners thereof that are Approved Transferees who deliver to the Funding Lender, with a copy to the Governmental Lender, a Required Transferee Representations. In connection with any sale, assignment or transfer of the Funding Loan, the Funding Lender shall give notice of such sale, assignment or transfer to the Fiscal Agent and the Fiscal Agent shall record such sale, assignment or transfer on its books or other records maintained for the registration of transfer of the Governmental Lender Note.

(c) No service charge shall be made for any sale or assignment of any portion of the Funding Loan or the Governmental Lender Note, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(d) The Funding Lender shall indemnify and defend the Governmental Lender against any claim brought by any transferor or transferee of the Funding Loan Note in respect of the Funding Loan Documents or the Borrower Loan Documents in the event that the Funding Lender permits a transfer of the Funding Loan Note in violation of the restrictions in Sections 2.4(b) and (c) above.

Section 2.5. Assignment of Borrower Loan and Cancellation of Funding Loan

(a) The Funding Loan shall be subject to cancellation at the option of CCRC, in whole and not in part, by the Funding Lender on the Conversion Date upon CCRC's exercise of the Borrower Loan Purchase Option (as defined in the Loan Purchase Agreement) and delivery of notice to the Governmental Lender, Funding Lender, Fiscal Agent and Borrower as set forth in Section [] of the Loan Purchase Agreement.

(b) If CCRC exercised its right of cancellation pursuant to Section 2.5(a) above, upon cancellation of the Funding Loan, the Governmental Lender Note (but not the Borrower Note, the Deed of Trust, the Supplemental Loan Agreement or the other Loan Documents), shall be deemed paid in full and retired and shall be deemed cancelled on the books of the Fiscal Agent, whether or not the Funding Lender has delivered the Governmental Lender Note to the Fiscal Agent. On the Conversion Date, the Funding Lender shall direct and cause the Funding Lender's representative to transfer and assign all of its right, title and interest in, to and under the Note, the Deed of Trust and the other Loan Documents to CCRC in connection with CCRC's purchase of the Loan; provided, that such instrument of assignment and assumption (which instrument may be substantially in the form of the "Assignment and Assumption" (as defined in the Loan Purchase Agreement) attached to the Loan Purchase Agreement as [Exhibit A] thereto), shall include the Governmental Lender as a consent party and signatory thereto and further shall include, inter alia, the following terms and conditions:

(i) the clear expression of agreement among the parties thereto, including the Governmental Lender, that: (A) the Regulatory Agreement shall continue in full force and effect, notwithstanding the consummation of the Loan Purchase Agreement and cancellation of the Funding Loan; (B) the Governmental Lender has not assigned any of its rights under the Regulatory Agreement to any party; and (C) for purposes of computing the annual administrative fee due and payable by the Borrower pursuant to Section 18 of the Regulatory Agreement, from and after the date of the consummation of the Loan Purchase Agreement and cancellation of the Funding Loan, the computation specified therein shall be based on the outstanding principal amount of the Loan rather than the outstanding principal amount of the Funding Loan;

(ii) as a condition to the execution of such Assignment and Assumption, including the consent of the Governmental Lender, that: (A) CCRC has executed and delivered a Required Transferee Representations Letter substantially in the form of Exhibit B hereto; and (C) the parties to such Assignment and Assumption shall expressly agree that, effective contemporaneously with, and as a condition to consummation of the Loan Purchase Agreement: (I) all accounts held by the Fiscal Agent under the Funding Loan Agreement have been closed and any balances have been transferred pursuant to the terms of the Funding Loan Agreement and the Borrower Loan Agreement, (II) any and all fees and expenses accrued and payable under the Funding Loan Agreement as of the date of such Assignment and Assumption have been paid or provided for; (III) the Funding Loan Agreement is thereby terminated, except for such provisions, including provisions relating to indemnification and rebate (including retention of records), as expressly survive pursuant to the Funding Loan Agreement's terms; and (IV) the Reserved Rights (as defined in the Borrower Loan Agreement) of the Governmental Lender shall continue in full force and effect for the benefit of the Governmental Lender, notwithstanding the assignment of the Loan Documents under such Assignment and Assumption and the termination of the Indenture; and

(iii) the fees and expenses of the Governmental Lender and the Fiscal Agent, including fees and expenses of counsel to either of them, incurred in connection with the consummation of the Loan Purchase Agreement and the transactions contemplated by such Assignment and Assumption, have been paid in full as of the effective date thereof by the Borrower or CCRC.

(c) Upon such purchase and transfer, the Governmental Lender and the Fiscal Agent shall have no further interest in the Loan or the Loan Documents, and this Funding Loan Agreement shall be terminated in accordance with Section 10.01 (subject to any indemnification or other rights expressly intended to survive termination, as set forth in this Funding Loan Agreement, the Borrower Loan Agreement or the Regulatory Agreement). The Governmental Lender and the Fiscal Agent shall execute and deliver any additional documents or take such other actions as may be reasonably required in order to effect the cancellation of the Funding Loan and transfer of the Funding Loan to CCRC as contemplated hereunder on the Conversion Date; provided that the provisions of this Section 2.5 hereof shall also apply to any such documents and actions.

ARTICLE III

PREPAYMENT

Section 3.1. Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note. The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender or the Fiscal Agent, as provided in the Borrower Loan Agreement, to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior Written Consent of the Funding Lender, which may be withheld in the Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2. Notice of Prepayment. Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to the Funding Lender and the Fiscal Agent in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

ARTICLE IV

SECURITY

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the "Security"):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan, the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, the Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

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

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held by the Fiscal Agent under this Funding Loan Agreement (other than the Rebate Fund), subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in

tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Funding Lender the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;
- (b) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (c) The originally executed Security Instrument and all other Funding Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;
- (d) UCC financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and
- (e) UCC financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall deliver and deposit with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security, at the expense of the Borrower.

ARTICLE V

LIMITED LIABILITY

Section 5.1. Source of Payment of Funding Loan and Other Obligations. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and the Security pledged and assigned hereunder. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Governmental Lender Note, or hereunder, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The issuance of the Funding Loan and the Governmental Lender Note shall not directly, indirectly, or contingently obligate the City, State of California or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

Section 5.2. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future officer, director, employee or agent of the Governmental Lender in his individual capacity, and neither the officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement.

ARTICLE VI

CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender and the Governmental Lender in their sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Note;
- (b) Receipt by the Funding Lender of the original executed Borrower Note, endorsed to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender and the Governmental Lender of executed counterparts of the Funding Loan Documents including this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Disbursement Agreement, the Regulatory Agreement, the Tax Certificate and the Security Instrument;
- (d) Receipt by the Funding Lender of a certified copy of the Resolution;
- (e) Receipt by the Governmental Lender of an executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- (g) Receipt by the Funding Lender and the Governmental Lender of a Tax Counsel Approving Opinion;
- (h) Receipt by the Funding Lender and the Governmental Lender of an Opinion of Counsel from Tax Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act of 1933, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;
- (i) delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender to the effect that the Funding Loan Documents to which the Borrower is a party are valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender and the Funding Lender; and

(j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Tax Counsel may require.

ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. Except as provided in Section 7.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender, the Fiscal Agent (as directed by the Funding Lender) and the Servicer, if any, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents.

Section 7.2. Reserved.

Section 7.3. Establishment of Funds. There are established with the Fiscal Agent the following funds and accounts:

- (a) The Funding Loan Payment Fund;
- (b) The Project Fund, and within the Project Fund (i) the Note Proceeds Account, (ii) the Capitalized Interest Account and (iii) the Borrower Equity Account;
- (c) The Expense Fund;
- (d) The Closing Costs Fund; and
- (e) The Rebate Fund.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent for the benefit of the Funding Lender, and except for money held in the Rebate Fund, the Expense Fund and Closing Costs Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

Section 7.4. Funding Loan Payment Fund. The Governmental Lender and the Borrower shall have no interest in the Funding Loan Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

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

The Fiscal Agent shall apply all amounts on deposit in the Funding Loan Payment Fund in the following order of priority:

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

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

Third, to pay or provide for the payment of the Funding Loan on the Maturity Date or earlier prepayment or acceleration date.

Section 7.5. Expense Fund. The Fiscal Agent shall deposit in the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender, the Rebate Analyst and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) the Ongoing Governmental Lender Fee, (ii) the Fiscal Agent Fee due and (iii) the Rebate Analyst Fee due.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Fiscal Agent of the amount of such deficiency.

Written Notice of any deficiency, which results in the Governmental Lender not receiving the Ongoing Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within ten (10) days of the respective due date.

Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

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

No amount shall be charged against the Expense Fund except as expressly provided in this Article VII hereof.

Section 7.6. Closing Costs Fund. On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Closing Costs Fund, the amount set forth in Exhibit E hereto. Amounts in the Closing Costs Fund shall be disbursed by the Fiscal Agent to pay Costs of Funding on the Closing Date or as soon as practicable thereafter as set forth in a closing memorandum prepared by the Funding Lender and approved by the Governmental Lender. Any interest earnings on amounts on deposit in the Closing Costs Fund shall remain in the Closing Costs Fund. Any moneys remaining in the Closing Costs Fund (including investment proceeds) after the earlier of (i) the payment of all costs of issuance as certified in writing to the Fiscal Agent by the Borrower or (ii) a period of six (6) months after the

Closing Date, shall be transferred to the Borrower Equity Account of the Project Fund (such amounts having been funded with Borrower Required Equity) and the Closing Costs Fund shall be closed.

Section 7.7. Project Fund.

(a) Proceeds of the Funding Loan provided by the Funding Lender shall be deposited to the Note Proceeds Account and the Capitalized Interest Account of the Project Fund on the Closing Date as set forth in Exhibit E and otherwise as directed in writing by the Funding Lender. Borrower Required Equity shall be deposited to the Borrower Equity Account and the Capitalized Interest Account of the Project Fund on the Closing Date as set forth in Exhibit E and otherwise as directed in writing by the Funding Lender. The Fiscal Agent shall disburse moneys in the Note Proceeds Account, the Capitalized Interest Account and the Borrower Equity Account of the Project Fund for the acquisition, construction and equipping of the Project, to pay other Qualified Project Costs and to pay other costs related to the Project as provided herein.

Except as otherwise provided in this Section, payments shall only be made from the Project Fund upon delivery to the Fiscal Agent of a Written Requisition substantially in the form attached hereto as Exhibit C and approved by the Funding Lender.

In addition to the above, in connection with any requisition or disbursement from the Project Fund:

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

(ii) Upon the occurrence of any mandatory prepayment of the Funding Loan pursuant to the terms hereof or an Event of Default, any amounts then remaining in the Project Fund may, at the Written Direction of the Funding Lender, be transferred to the Funding Loan Payment Fund to be applied to the prepayment of the Funding Loan without a Written Requisition.

(iii) The Fiscal Agent shall immediately provide Written Notice to the Borrower, the Funding Lender, the Servicer and the Governmental Lender if there are not sufficient funds available to or on deposit with the Fiscal Agent to make the disbursements as and when required by this Section.

(iv) The Fiscal Agent may conclusively rely on all Written Requisitions executed by the Authorized Borrower Representative and approved by the Funding Lender, as required by this Section, as conditions of payment from the Project Fund, and shall constitute to the Fiscal Agent, irrevocable determinations that all conditions to payment of the specified amounts from the Project Fund have been satisfied. All Written Requisitions delivered to the Fiscal Agent shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to make any independent investigation with respect to the matters set forth in any Written Requisition or other statements, orders, certifications and approvals received by the Fiscal Agent.

Upon receipt of each Written Requisition signed by the Authorized Borrower Representative and approved in writing by the Funding Lender, the Fiscal Agent shall promptly, but in any case within two (2) Business Days, make payment from the applicable account within the Project Fund in accordance with such Written Requisition. All such payments shall be made by check or draft payable, or by wire transfer, either (i) directly to the person, firm or corporation to be paid as provided in the Written Requisition, (ii) to the

Borrower who shall then promptly pay such person, firm or corporation to be paid, or (iii) upon receipt by the Funding Lender of evidence that the Borrower has previously paid such amount, directly to the Borrower. Upon final disbursement of all amounts on deposit in the Project Fund, the Fiscal Agent shall close the Project Fund.

(b) Amounts set aside to pay capitalized interest on the Funding Loan, including additional capitalized interest deposited by the Borrower in connection with any deposits made pursuant to Section 2.1 hereof or extension of the Completion Deadline or the Stabilization Deadline, shall be deposited in the Capitalized Interest Account of the Project Fund. On the last Business Day immediately preceding each Interest Payment Date up to and including the Stabilization Date, the Fiscal Agent shall transfer funds from the Capitalized Interest Account of the Project Fund or to the extent that insufficient funds are on deposit in the Capitalized Interest Account, from the Borrower Equity Account of the Project Fund, to the Funding Loan Payment Fund to pay the interest due on the Funding Loan on the following Interest Payment Date without the need for a Written Requisition. After the Stabilization Date, any amounts remaining in the Capitalized Interest Account shall be transferred to the Note Proceeds Account of the Project Fund to the extent such amounts were funded with proceeds of the Funding Loan and to the Borrower Equity Account of the Project Fund to the extent such amounts were funded with Borrower Required Equity.

Section 7.8. Rebate Fund. The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower or the Rebate Analyst to be transferred thereto pursuant to Section 5.35 of the Borrower Loan Agreement.

Section 7.9. Investments.

Amounts on deposit in all funds and accounts held hereunder shall be invested in Permitted Investments as directed in writing by the Borrower and approved in writing by the Funding Lender. Investment income earned on amounts on deposit in each fund and account shall be retained in and credited to and become a part of the amounts on deposit in such fund or account. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate.

The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal Agent shall not be liable for any losses from investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Fiscal Agent hereunder.

The amounts received upon the sale of the Governmental Lender Note and interest and other investment earnings on those amounts shall be allocated and used for financing Qualified Project Costs of each building and related land in the Project so that the aggregate basis of each such building and related

land, within the meaning of Section 42(h)(4) of the Code, shall be financed by fifty percent (50%) or more from those amounts.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

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

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

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

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

(e) The California Debt Limit Allocation Committee has provided an allocation of the State's 2015 private activity bond volume cap under Section 146 of the Code to the Governmental Lender for the

Governmental Lender Note, and the Governmental Lender has timely made any required carry forward election with respect to such allocation. The Governmental Lender hereby elects to apply the alternative option under clause (2) of the first paragraph of Section 3.01 of IRS Notice 2011-63 with respect to the issue date of the Governmental Lender Note; and, in connection therewith, has directed Tax Counsel to include the information on Form 8038 filed for the Governmental Lender Note that is required by Section 3.03 of IRS Notice 2011-63.

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

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Funding Loan. Subject to the provisions of Article II hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

Section 8.4. The Servicer. The Funding Lender may appoint the Servicer to service and administer the Governmental Loan and/or the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by the Governmental Lender to the Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required to nor obligated to) perform and observe any agreement or covenant of the Governmental Lender under the Borrower Loan Agreement.

(b) The Governmental Lender will promptly notify or cause to be notified the Borrower, the Fiscal Agent, the Servicer, if any, and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received Written Notice or otherwise has knowledge of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

(a) The Fiscal Agent shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Governmental Lender Note and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and to make copies thereof.

Section 8.7. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Fiscal Agent and the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

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

(b) Not take or cause to be taken any other action or actions, or fail to take any action or actions, which would adversely affect the tax exempt status of the Governmental Lender Note;

(c) At all times do and perform all acts and things permitted by law and necessary or desirable in order to maintain tax-exempt status of the Governmental Lender Note, except in the event where any holder of the Governmental Lender Note or a portion thereof is a "substantial user" of the facilities financed with the Governmental Lender Note or a "related person" within the meaning of Section 147(a) of the Code;

(d) Not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Funding Loan to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations; and

(e) Require the Borrower to agree, pursuant to the terms and provisions of the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan, or any other moneys which may be deemed to be proceeds of the Funding Loan pursuant to the Code, which would cause the Funding Loan to be an "arbitrage bond" within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Funding Loan; and

(f) Require the Borrower to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full, and by its acceptance of this Funding Loan Agreement, the Fiscal Agent acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Funding Loan Agreement by this reference and agrees to comply with the terms specifically applicable to it.

For purposes of this Section 8.7: (1) the Governmental Lender is assuming, with the consent of the parties hereto, the truth of the covenants and representations of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement and the Tax Certificate, and the Borrower's compliance therewith; (2) the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's knowledge and control; (3) no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender; and (4) in complying with the foregoing covenants, the Governmental Lender may rely on an opinion of Tax Counsel.

Section 8.8. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under the Borrower Loan Agreement exists.

ARTICLE IX

DEFAULT; REMEDIES

Section 9.1. Events of Default. Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) A default in the payment of any interest upon the Governmental Lender Note when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration, call for mandatory prepayment or otherwise; or

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of thirty (30) days after there has been given Written Notice, as provided in Section 12.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender has commenced to cure such failure to observe or perform within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or consent, then the Governmental Lender shall have an additional period of time as reasonably necessary (not to exceed thirty (30) days unless extended in writing by the Funding Lender) within which to cure such default; or

(d) A default in the payment of any Additional Borrower Payments; or

(e) Any other "Default" or "Event of Default" under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

Section 9.2. Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender and the Borrower and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender, rescind and annul such declaration and its consequences if:

(i) There has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan and the Governmental Lender Note, (2) the principal of and Prepayment Premium, on the Funding Loan and the Governmental Lender Note that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan and the Governmental Lender Note, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan and the Governmental Lender Note, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) All Events of Default, other than the nonpayment of the principal of the Funding Loan and the Governmental Lender Note which have become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.3. Additional Remedies; the Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. The Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the UCC applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the

real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax exempt status of the interest on the Governmental Lender Note, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of sixty (60) days after the Borrower and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement or any of the other Funding Loan Documents to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed thereunder, the Funding Lender shall have the right to exercise all its rights and remedies thereunder.

Section 9.4. Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue

installments of interest on the Funding Loan; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.5. Remedies Vested in the Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If the Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8. Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by the Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due to the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10. Remedies Under the Borrower Loan Agreement or the Borrower Note. As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its

own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

Section 9.11. Waiver of Appraisalment and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisalment, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in Section 9.11(a) above, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12. Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.14. Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

ARTICLE X

AMENDMENT; AMENDMENT OF THE BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender, the Fiscal Agent and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower, and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

Section 10.2. Amendments Require the Funding Lender Consent. The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Funding Loan Document without the prior Written Consent of the Funding Lender.

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI

THE FISCAL AGENT

Section 11.1. Appointment of the Fiscal Agent; Acceptance. The Governmental Lender hereby appoints [FISCAL AGENT] as the Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

Section 11.2. Certain Duties and Responsibilities of the Fiscal Agent.

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

(a) If an event of default exists hereunder or under any Funding Loan Document, the Fiscal Agent shall exercise such rights and powers vested in it by this Funding Loan Agreement, and subject to Section 11.2(b) hereof, use the same degree of care and skill in its exercise, as a prudent corporate trust officer would exercise or use under the circumstances in the conduct of corporate trust business.

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

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

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

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

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

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Funding Loan Documents to which it is a party and other related documents, solely in its capacity as the Fiscal Agent.

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

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

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

(f) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 hereof shall extend to actions taken or omitted in its role as a party to the Borrower Loan Agreement and the other Funding Loan Documents.

Section 11.3. Notice of Defaults. Upon the occurrence of any default hereunder or under any other Funding Loan Document and provided that a Responsible Officer of the Fiscal Agent is aware of or has received Written Notice of the existence of such default, promptly, and in any event within fifteen (15) days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

Section 11.4. Certain Rights of the Fiscal Agent. Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

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

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

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

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

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

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any other Funding Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or the Ongoing Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Notice of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any other Funding Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

Section 11.5. Not Responsible for Recitals. The recitals contained herein and in the Governmental Lender Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

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

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

Section 11.6. May Hold Funding Loan. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not the Fiscal Agent.

Section 11.7. Moneys Held in Trust. Moneys held by the Fiscal Agent in trust hereunder need not be segregated from other funds except to the extent hereunder directed or as required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

Section 11.8. Compensation and Reimbursement. Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

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

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

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

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

Section 11.9. The Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, have at least \$500,000,000 of trust assets under management and have a combined capital surplus of at least \$2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender in its sole and absolute discretion.

Section 11.10. Resignation and Removal; Appointment of Successor.

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

(b) The Fiscal Agent may resign at any time by giving sixty (60) days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within forty-five (45) days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with thirty (30) days' notice by (i) the Governmental Lender, with Written Notice delivered to the Funding Lender and the Borrower or (ii) the Funding Lender, with Written Notice delivered to the Governmental Lender and the Borrower.

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

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

Section 11.11. Acceptance of Appointment by Successor.

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

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

Section 11.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Governmental Lender and the Funding Lender within thirty (30) days of such succession.

Section 11.13. Appointment of Co-Fiscal Agent. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Funding Loan Document, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

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

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and

confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co-fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co-fiscal agent.

Section 11.14. Loan Servicing. The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint the Servicer to service and administer the Funding Loan and the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of the Servicer or for any acts or omissions of the Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

Section 11.16. City Contracting Provisions. The Funding Lender and the Fiscal Agent each covenant and agree to comply with the provisions set forth in Exhibit F to this Funding Loan Agreement, to the extent applicable to the Funding Lender as maker of the Funding Loan or the Fiscal Agent as fiscal agent for the Funding Loan, which is incorporated in and made a part of this Funding Loan Agreement by this reference.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Notices. All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender:

City and County of San Francisco
Mayor's Office of Housing and Community
Development (MOHCD)
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attention: Adam Cray
Telephone: (415) 701-5512
Facsimile: (415) 554-4755

If to the Fiscal Agent:

[FISCAL AGENT NAME]
[ADDRESS]
Attention: [_____]

Telephone: [_____]
Facsimile: [(____) ____-____]

If to the Borrower:

455 Fell, L.P.
1360 Mission Street, Suite 300
San Francisco, CA 94103
Attention: Tim Dunn
Telephone: (415) 355-7113
Facsimile: (415) 355-7101

and with a copy to:

Gubb & Barshay
505 14th Street, Suite 1050
Oakland, CA 94612
Attention: Evan Gross
Telephone: (415) 781-6600 x 6
Facsimile: (415) 781-6967

[and a copy to Equity Investor]

[Bank of America, N.A.]
[ADDRESS]
Attention: [_____]
Telephone: [_____]
Facsimile: [(____) ____-____]

If to the Funding Lender:

Bank of America, N.A.
[ADDRESS]
Attention: [_____]
Telephone: [_____]
Facsimile: [(____) ____-____]

And to:

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three (3) Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement

by providing Written Notice of such change of address to all of the parties by Written Notice as provided herein.

Section 12.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 12.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 12.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period after such date and prior to the date of payment.

Section 12.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State.

Section 12.6. Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 12.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 12.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 12.9. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and related documents and may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Section 12.11. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of the first (1st) day of October, 2017]

[Signature page follows]

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

BANK OF AMERICA, N.A., as Funding Lender

By: _____
Title: _____

[Signatures continue on the next page]

[The Governmental Lender's Signature Page to the Funding Loan Agreement]

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Director, Mayor's Office of Housing and
Community Development

Approved as to form:

DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz,
Deputy City Attorney

[Signatures continue on the next page]

[The Fiscal Agent's Signature Page to the Funding Loan Agreement]

[FISCAL AGENT]

By: _____
Title: _____

EXHIBIT A

FORM OF THE GOVERNMENTAL LENDER NOTE

THIS NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING LOAN AGREEMENT (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

**CITY AND COUNTY OF SAN FRANCISCO
MULTIFAMILY HOUSING REVENUE NOTE
SERIES 2017 []
(455 FELL STREET APARTMENTS) DATED [CLOSING DATE]**

[\$[PAR AMOUNT]

FOR VALUE RECEIVED, the undersigned CITY AND COUNTY OF SAN FRANCISCO (“Obligor”) promises to pay to the order of BANK OF AMERICA, N.A. (“Holder”) the maximum principal sum of [FUNDING LOAN AMOUNT IN WORDS] \$[PAR AMOUNT], on [Maturity Date], or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of [October 1, 2017] (the “Funding Loan Agreement”), among Obligor, [FISCAL AGENT], as Fiscal Agent (the “Fiscal Agent”), and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Governmental Lender Note then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on this Governmental Lender Note in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable, interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on this Governmental Lender Note then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the “Borrower Loan”) made by Obligor from proceeds of the Funding Loan to 455 Fell, L.P., a California limited partnership, as borrower (the “Borrower”), under that certain Borrower Loan Agreement, dated as of [October 1, 2017] (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”), among the Obligor, the Fiscal Agent and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under the Governmental Lender Note.

This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and the Security pledged and assigned under the Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on this Governmental Lender Note or the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or this Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Governmental Lender Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The issuance of this Governmental Lender Note shall not directly or indirectly or contingently obligate the Obligor or the State of California or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

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

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount

after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

[Signature Page Follows]

IN WITNESS WHEREOF, the Obligor has caused this Multifamily Note to be duly executed by the manual signature of its Authorized Officer as of the date first set forth above.

OBLIGOR:

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Edwin M. Lee
Mayor

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

EXHIBIT B-1

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS (FUNDING LOAN)

[October __, 2017]

The undersigned, as holder (the "Holder") of a loan (the "Funding Loan") in the maximum amount of [\$PAR] from BANK OF AMERICA, N.A. (the "Funding Lender") to CITY AND COUNTY OF SAN FRANCISCO (the "Governmental Lender") pursuant to a Funding Loan Agreement dated as of [October 1, 2017] (the "Funding Loan Agreement") among the Funding Lender, [FISCAL AGENT], as Fiscal Agent and the Governmental Lender (the "Funding Loan") evidenced by the Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017 [] (the "Governmental Lender Note"), or an interest therein, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Loan. The Holder is able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Loan, and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Funding Loan [or an interest therein].

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan, except as contemplated by the Loan Purchase Agreement; provided, however, that the Holder may sell or transfer the Governmental Lender Note and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and the Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that the Governmental Lender Note is not registered under the Securities Act of 1933, as amended, and that such registration is not legally required as of the date hereof; and further understands that the Governmental Lender Note (a) is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock

or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

7. The Holder understands that (a) the Funding Loan is not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof, (b) the Funding Loan does not and will not represent or constitute a general obligation or a pledge of the faith and credit of the Governmental Lender, the State of California or any political subdivision thereof; and (c) the liability of the Governmental Lender with respect to the Funding Loan is limited to the Pledged Security as set forth in the Funding Loan Agreement.

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

9. [FOR PURCHASE OF THE FUNDING LOAN: The Holder hereby agrees to become the "Funding Lender" under the Funding Loan Documents and assumes all of the obligations and agrees to perform all of the duties of the Funding Lender thereunder.]

[Remainder of page intentionally left blank.]

[Signature Page to Required Transferee Representations]

[_____], as Holder

By _____
Name _____
Its _____

EXHIBIT B-2

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS (BORROWER LOAN)

[October 1, 2017]

Pursuant to that certain Funding Loan Agreement dated as of [October 1, 2017] (the "Funding Loan Agreement") among Bank of America, N.A., as Funding Lender (the "Funding Lender"), [FISCAL AGENT], as Fiscal Agent (the "Fiscal Agent"), and the City and County of San Francisco, as Governmental Lender (the "Governmental Lender"), evidenced by the Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017 [] (the "Governmental Lender Note"), the Initial Funding Lender has made a loan in the principal amount of [\$PAR] [(\$Par)] (the "Funding Loan") to the Governmental Lender. Pursuant to that certain Borrower Loan Agreement (the "Borrower Loan Agreement") dated as of [October 1, 2017], and executed by and among 455 Fell, L.P. (the "Borrower"), the Governmental Lender, and the Fiscal Agent, the Governmental Lender has made a loan in the principal amount of [\$PAR] and No/100 Dollars [(\$PAR)] (the "Borrower Loan") to the Borrower of the proceeds of the Funding Loan. The Borrower Loan is evidenced by the Borrower Note (as defined below) executed by Borrower in favor of the Governmental Lender in the aggregate principal amount of the Borrower Loan, and is further evidenced by the documents described in the Borrower Loan Agreement as the "Loan Documents." The Borrower Note is secured by, among other things, the Deed of Trust (as defined below), encumbering the Borrower's interest in the Property. Pursuant to the Assignment of Deed of Trust (as defined below), the rights of the Governmental Lender in and to the Borrower Loan Agreement, the Borrower Note and the Deed of Trust (except for the Reserved Rights) have been assigned by the Governmental Lender to the Fiscal Agent.

Pursuant to [Section 1.7] of that certain Loan Purchase Agreement dated as of [October 1, 2017] by and among the Initial Funding Lender, California Community Reinvestment Corporation, a California nonprofit public benefit corporation ("CCRC") and the Borrower ("Loan Purchase Agreement") and subject to the terms and conditions set forth therein and in the Funding Loan Agreement, CCRC has elected to purchase the Borrower Loan in lieu of the Funding Loan. As a condition to the execution of an Assignment and Assumption of Deed of Trust and Loan Documents, of even date herewith (the "Loan Assignment"), by the Fiscal Agent, in favor of CCRC, as assignee thereunder (for purposes of this letter, the "Transferee"), with the consent of the Governmental Lender, the Borrower, and the Funding Lender, the undersigned is delivering this Required Transferee Representations and hereby acknowledges receipt of the Purchased Documents (as defined in the Loan Assignment).

In connection with the purchase of the Borrower Loan by the Transferee, the Transferee makes the following representations upon which you may rely:

1. The Transferee has all requisite authority to purchase the Borrower Loan and to execute this letter and any other instruments and documents required to be executed by the Transferee in connection with the purchase of the Borrower Loan.
2. The Transferee is an Approved Transferee.
3. The Borrower Loan is being acquired by the Transferee for investment and not with a view to, or for resale in connection with, any distribution of the Borrower Loan, and the Transferee intends to hold the Borrower Loan for its own account and for an indefinite period of time. The Transferee understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

4. The Transferee understands that the Borrower Loan (a) is not registered under the Securities Act of 1933 nor is it being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state and that any exemption from federal or state securities registration requirements for which the Funding Loan was eligible may not extend to the Borrower Loan or the Borrower Note; (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which is not be readily marketable. The Transferee acknowledges and agrees that the Governmental is not the issuer of the Borrower Loan, and that the Transferee is solely responsible for compliance with applicable securities laws relative to its purchase of the Borrower Loan and any subsequent transfer of the Borrower Loan pursuant to the terms of the Borrower Loan Agreement and the Borrower Note.

5. The Transferee understands that (a) the Borrower Loan is not secured by any pledge of any moneys received or to be received from taxation by the Governmental Lender, the State of California or any political subdivision thereof, (b) the Borrower Loan does not and will not represent or constitute any debt, obligation or pledge of the faith and credit of the Governmental Lender, the State of California or any political subdivision thereof; and (c) the Governmental Lender has no liability with respect to the Borrower Loan, which is solely an obligation and liability of the Borrower. The Transferee acknowledges and agrees that interest on the Borrower Loan or the Borrower Note is not exempt from federal or state income taxes and that any opinions issued with respect to the Funding Loan relative to the status of interest on the Funding Loan do not extend to the status of interest on the Borrower Loan or the Borrower Note, about which Note Counsel has expressed no opinion.

6. The Transferee has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Transferee has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the Project and the Borrower Loan. The Transferee has not relied upon the Governmental Lender for any information in connection with its purchase of the Borrower Loan.

7. The Transferee acknowledges that neither the Governmental Lender nor the Borrower has prepared an offering document with respect to the Borrower Loan.

8. The Transferee has made its own inquiry and analysis with respect to the Borrower Loan and the security therefor, and other material factors affecting the security and payment of the Borrower Loan. The Transferee is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Borrower Loan.

9. The Transferee acknowledges and agrees that, as provided in the Borrower Loan Agreement and the Borrower Note, it may sell or transfer the Borrower Loan only to a single investor. The Transferee acknowledges and agrees that the Borrower Loan may only be transferred in its entirety, and none of the Loan Documents may be transferred independently of any other Loan Document.

10. The Transferee agrees to indemnify and hold harmless the Governmental Lender with respect to any claim asserted against the Governmental Lender that is based upon the sale, transfer or disposition of the Borrower Loan by the Transferee other than as permitted herein pursuant to the Borrower Loan Agreement and the Borrower Note.

Very truly yours,

[California Community Reinvestment
Corporation]

By _____

Name _____

Title _____

EXHIBIT C

FORM OF WRITTEN REQUISITION
(Project Fund)

Draw # _____

[FISCAL AGENT]

[FISCAL AGENT ADDRESS]

Attention: _____

Re: City and County of San Francisco Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017 []

This requisition ("Requisition") is being delivered to you in accordance with the Funding Loan Agreement dated as of [October 1, 2017] (the "Funding Loan Agreement") among Bank of America, N.A. (the "Funding Lender"), the CITY AND COUNTY OF SAN FRANCISCO (the "Governmental Lender") and [FISCAL AGENT], as Fiscal Agent (the "Fiscal Agent") pursuant to which the above-referenced note (the "Governmental Lender Note") was issued. Capitalized terms not defined herein shall have the meanings assigned thereto in the Funding Loan Agreement.

1. You are requested to disburse funds in the amount of [\$ _____] from the Note Proceeds Account and [\$ _____] from the Borrower Equity Account of the Project Fund as Draw [# _____] pursuant to Section 7.7 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth on Schedule I attached hereto and incorporated herein by reference.

2. The undersigned certifies that:

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

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

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

(iv) the amounts included in this Requisition to be funded from the Note Proceeds Account of the Project Fund contains no items representing any Costs of Funding or any other amount constituting an issuance cost under Section 147(g) of the Code;

(v) payment of the costs included in this Requisition will not violate any representation, warranty or covenant of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Certificate;

(vi) not less than ninety five percent (95%) of the sum of: (a) the amounts included in this Requisition to be funded from the Note Proceeds Account of the Project Fund plus (b) all amounts previously disbursed from the Note Proceeds Account of the Project Fund have been or will be applied by the Borrower to pay Qualified Project Costs;

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

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

Dated: [Date]

455 Fell, L.P., A California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Its: _____

Approved by the Funding Lender:

BANK OF AMERICA, N.A.

By: _____
Title: _____
Date: _____

EXHIBIT D

CLOSING COSTS REQUISITION

[FISCAL AGENT]

[FISCAL AGENT ADDRESS]

Attention: _____

Re: City and County of San Francisco Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017 []

The undersigned, an authorized representative of 455 Fell, L.P., a California limited partnership (the "Borrower"), hereby certifies to you that he/she is authorized and empowered to submit this requisition to you and that attached hereto as Schedule "A" is a schedule of issuance costs incurred in connection with the closing of the funding loan evidenced by the above described Multifamily Housing Revenue Note (the "Governmental Lender Note"), including the names and addresses of the payees and the specific amounts payable to each such payee, and that to the best of the undersigned's information and belief, such amounts are true and correct.

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of [October 1, 2017] (the "Funding Loan Agreement") among Bank of America, N.A. (the "Funding Lender"), the City and County of San Francisco (the "Governmental Lender") and [FISCAL AGENT], as Fiscal Agent (the "Fiscal Agent") pursuant to which the Governmental Lender Note was issued and delivered. You are hereby instructed to withdraw from the Closing Costs Fund created under the Funding Loan Agreement the amounts shown across from each payee listed on Schedule "A" hereto and pay such amounts to each such payee by wire transfer or by such other means as is acceptable to you and any such payee.

Dated: [Date]

Very truly yours,

455 Fell, L.P., a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Its: _____

Approved by the Funding Lender:

BANK OF AMERICA, N.A.

By: _____

Title: _____

Date: _____

SCHEDULE "A"

Note: [SPAR] City and County of San Francisco Multifamily Revenue Note
(455 Fell Street Apartments) Series 2017 []

Payee:

Amount:

Method of Payment:

Description of Expense:

EXHIBIT E

INITIAL DEPOSITS AT CLOSING

Sources	Note Proceeds Account	Capitalized Interest Account	Borrower Equity Account	Closing Costs Fund	Expense Account	Total
Note	\$	\$	\$	\$	\$	\$
Equity						
Total	\$	\$	\$	\$	\$	\$

EXHIBIT F

CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Funding Loan Agreement as if set forth in the body thereof. Capitalized terms used but not defined in this Exhibit shall have the meanings given in this Funding Loan Agreement.

1. **Conflict of Interest.** Through its execution of this Funding Loan Agreement (the "Agreement"), Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

2. **Proprietary or Confidential Information of City.** Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent Contractor would use to protect its own proprietary data.

3. **Local Business Enterprise Utilization; Liquidated Damages.**

a. **The LBE Ordinance.** Contractor shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. **Enforcement.** If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to

Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

4. Nondiscrimination; Penalties.

a. **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such Contractor or the Contractor's subcontractors (each, a "Subcontractor"), applicant for employment with such Contractor or Subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all Subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. **Condition to Contract.** As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly "Human Rights Commission").

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

5. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

6. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges Contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

7. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

8. Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

9. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

10. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, Contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

11. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

12. Requiring Minimum Compensation for Covered Employees.

- a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.
- b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any Subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any Subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.
- c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.
- d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.
- e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor.
- f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.
- g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.
- h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.
- i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause Contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This

obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

13. Requiring Health Benefits for Covered Employees.

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

14. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

15. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

16. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time..

17. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

18. Food Service Waste Reduction Requirements. Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision

19. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any Contractor, Subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A Contractor, Subcontractor or consultant will be deemed to have submitted a false claim to the City if the Contractor, Subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

BORROWER LOAN AGREEMENT

Among

**CITY AND COUNTY OF SAN FRANCISCO,
as Governmental Lender,**

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

And

455 FELL, L.P.,

as Borrower

Dated as of [October 1, 2017]

Relating to:

[\$[PAR]]

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to Bank of America, N.A., a national banking association, as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and among City and County of San Francisco (the "Governmental Lender"), [FISCAL AGENT], as Fiscal Agent and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1	Specific Definitions.....	2
Section 1.2	Definitions.....	2

ARTICLE II GENERAL

Section 2.1	Origination of the Borrower Loan	18
Section 2.2	Security for the Funding Loan	18
Section 2.3	Loan; Borrower Note; Conditions to Closing	20
Section 2.4	Borrower Loan Payments.....	21
Section 2.5	Additional Borrower Payments.....	21
Section 2.6	Overdue Payments; Payments in Default.....	22
Section 2.7	Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds.....	22
Section 2.8	Grant of Security Interest; Application of Funds	23
Section 2.9	Marshalling; Payments Set Aside	23
Section 2.10	Borrower Loan Disbursements	23

ARTICLE III CONVERSION

Section 3.1	Conversion Date and Extension of Outside Conversion Date	24
Section 3.2	Notice from the Funding Lender; Funding Lender's Calculation Final.....	24
Section 3.3	Mandatory Prepayment of the Borrower Loan	24
Section 3.4	Release of Remaining Loan Proceeds.....	24
Section 3.5	No Amendment.....	24
Section 3.6	Determinations by the Funding Lender.....	25

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 4.1	Borrower Representations.....	25
Section 4.2	Survival of Representations and Covenants.....	35

ARTICLE V AFFIRMATIVE COVENANTS

Section 5.1	Existence.....	35
Section 5.2	Taxes and Other Charges	35
Section 5.3	Repairs; Maintenance and Compliance; Physical Condition	35
Section 5.4	Litigation.....	36
Section 5.5	Performance of Other Agreements.....	36
Section 5.6	Notices	36
Section 5.7	Cooperate in Legal Proceedings	36
Section 5.8	Further Assurances.....	36
Section 5.9	Delivery of Financial Information	37
Section 5.10	Environmental Matters.....	37
Section 5.11	The Governmental Lender's Fees, the Fiscal Agent's Fees and the Funding Lender's Fees	37

TABLE OF CONTENTS

(continued)

	Page
Section 5.12	Estoppel Statement.....37
Section 5.13	Defense of Actions.....37
Section 5.14	Expenses38
Section 5.15	Indemnity38
Section 5.16	No Warranty of Condition or Suitability by the Governmental Lender or the Funding Lender.....40
Section 5.17	Right of Access to the Project.....40
Section 5.18	Notice of Default.....41
Section 5.19	Covenant with the Governmental Lender and the Funding Lender41
Section 5.20	Obligation of the Borrower to Construct the Project41
Section 5.21	Maintenance of Insurance41
Section 5.22	Information; Statements and Reports.....42
Section 5.23	Additional Notices44
Section 5.24	Compliance with Other Agreements; Legal Requirements.....45
Section 5.25	Completion and Maintenance of Project.....45
Section 5.26	Fixtures46
Section 5.27	Income from Project.....46
Section 5.28	Leases and Occupancy Agreements.....46
Section 5.29	Project Agreements and Licenses47
Section 5.30	Payment of Debt Payments47
Section 5.31	ERISA47
Section 5.32	Patriot Act Compliance.....47
Section 5.33	Funds from Equity Investor47
Section 5.34	Tax Covenants.....47
Section 5.35	Payment of Rebate52
Section 5.36	Covenants under Funding Loan Agreement54
Section 5.37	Notice of Default.....54

ARTICLE VI NEGATIVE COVENANTS

Section 6.1	Management Agreement.....54
Section 6.2	Dissolution54
Section 6.3	Change in Business or Operation of Property.....55
Section 6.4	Debt Cancellation.....55
Section 6.5	Assets55
Section 6.6	Transfers55
Section 6.7	Debt.....55
Section 6.8	Assignment of Rights.....55
Section 6.9	Principal Place of Business55
Section 6.10	Partnership Agreement.....55
Section 6.11	ERISA55
Section 6.12	No Hedging Arrangements55
Section 6.13	Loans and Investments; Distributions; Related Party Payments.....56
Section 6.14	Amendment of the Related Documents or CC&R's56
Section 6.15	Personal Property56
Section 6.16	Fiscal Year56
Section 6.17	Publicity56

TABLE OF CONTENTS
(continued)

		Page
Section 6.18	Subordinate Loan Documents	57
Section 6.19	Ground Lease	57
Section 6.20	Controlled Substances	57
Section 6.21	Sanctions	57
Section 6.22	Effect of [Supplemental Loan Agreement Following Conversion]	57
Section 6.23	Agreement and CCRC's purchase of the Funding Loan on the Conversion Date, CCRC shall become the Funding Lender and the Servicer	57
<p>ARTICLE VII DEFAULTS</p>		
Section 7.1	Events of Default	57
Section 7.2	Remedies	61
<p>ARTICLE VIII SPECIAL PROVISIONS</p>		
Section 8.1	Sale of Note and Secondary Market Transaction	65
<p>ARTICLE IX MISCELLANEOUS</p>		
Section 9.1	Notices	67
Section 9.2	Brokers and Financial Advisors	68
Section 9.3	Survival	69
Section 9.4	Preferences	69
Section 9.5	Waiver of Notice	69
Section 9.6	Offsets, Counterclaims and Defenses	69
Section 9.7	Publicity	69
Section 9.8	Construction of Documents	69
Section 9.9	No Third Party Beneficiaries	70
Section 9.10	Assignment	70
Section 9.11	[Reserved]	70
Section 9.12	The Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer Not in Control; No Partnership	70
Section 9.13	Release	71
Section 9.14	Term of the Borrower Loan Agreement	71
Section 9.15	Reimbursement of Expenses	71
Section 9.16	Permitted Contests	71
Section 9.17	The Funding Lender's Approval of Instruments and Parties	72
Section 9.18	The Funding Lender's Determination of Facts	72
Section 9.19	Calendar Months	72
Section 9.20	Determinations by the Governmental Lender and/or the Funding Lender	72
Section 9.21	Governing Law	72
Section 9.22	Consent to Jurisdiction and Venue	72
Section 9.23	Successors and Assigns	73
Section 9.24	Severability	73
Section 9.25	Entire Agreement; Amendment and Waiver	73
Section 9.26	Counterparts	73
Section 9.27	Captions	73
Section 9.28	Servicer	73

TABLE OF CONTENTS

(continued)

Page

Section 9.29	Beneficiary Parties as Third Party Beneficiary	73
Section 9.30	[RESERVED]	73
Section 9.31	Time of the Essence	74
Section 9.32	Modifications	74
Section 9.33	Reference Date	74
Section 9.34	Electronic Communications	74
Section 9.35	City Contracting Provisions	75

ARTICLE X

LIMITATIONS ON LIABILITY

Section 10.1	Limitation on Liability	75
Section 10.2	Limitation on Liability of the Governmental Lender	75
Section 10.3	Waiver of Personal Liability	75
Section 10.4	Limitation on Liability of the Funding Lender's Officers, Employees, Etc	75
Section 10.5	Delivery of Reports, Etc	76

EXHIBIT A - FORM OF COMPLIANCE CERTIFICATE	A-1
EXHIBIT B - SCHEDULE OF INSURANCE REQUIREMENTS	B-1
EXHIBIT C - FORM OF MONTHLY LEASE UP REPORT	C-1
EXHIBIT D - FORM OF STABILIZATION CERTIFICATE	D-1

BORROWER LOAN AGREEMENT

This Borrower Loan Agreement, dated as of [October 1, 2017] (this "Borrower Loan Agreement") is entered into among the City and County of San Francisco, a public body corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the "Governmental Lender") [FISCAL AGENT] (together with any successor or assign, the "Fiscal Agent") and 455 Fell, L.P., a California limited partnership (together with its successors and assigns, the "Borrower").

RECITALS

WHEREAS, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of the Act (as defined herein); and

WHEREAS, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied, in whole or in part by persons of low and moderate income; (b) to borrow funds for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with any such borrowing by the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the repayment of any such borrowing by the Governmental Lender; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the "Borrower Loan"), for the construction of a 108-unit (including 1 manager's unit) multifamily residential rental project located in City and County of San Francisco, known as 455 Fell Street Apartments (the "Project"); and

WHEREAS, the Borrower's repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Note, as defined herein; and

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the "Funding Loan Agreement"), among the Governmental Lender, the Fiscal Agent and Bank of America, N.A., a national banking association (together with any successor hereunder, the "Funding Lender"), under which the Funding Lender will make a loan (the "Funding Loan") to the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement to the Borrower to finance the acquisition, construction, development and equipping of the Project; and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith (as amended, restated and/or supplemented from time to time, the "Security Instrument"), and assigned to the Funding Lender to secure the Funding Loan, encumbering the Project, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement, the Funding Loan Agreement and the Construction Disbursement Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1 Specific Definitions. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(c) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words "hereof," "herein" and "hereunder" and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word "including" means "including but not limited to."

Section 1.2 Definitions. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

"Act" shall mean Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended.

"Act of Bankruptcy" shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

"ADA" shall have the meaning set forth in Section 4.1.38 hereof.

"Additional Borrower Payments" shall mean all payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default), and Section 5.14 (Expenses) of this Borrower Loan Agreement; Section 2.1 of the Funding Loan Agreement; Section 3.3.3 of the Construction Disbursement Agreement; and Section 10 (Prepayments) of the Borrower Note (Voluntary and Involuntary Prepayments).

"Agreement of Environmental Indemnification" shall mean the Environmental Indemnification and Release Agreement, of even date herewith, executed by the Borrower and the Guarantor for the

benefit of the Funding Lender, the Servicer, the Fiscal Agent, the Governmental Lender and each of their respective successors and assigns.

“Appraisal” shall mean an appraisal of the Project and Improvements, which appraisal shall be (i) performed by a qualified appraiser licensed in the State selected by the Funding Lender, and (ii) satisfactory to the Funding Lender (including, without limitation, as adjusted pursuant to any internal review thereof by the Funding Lender) in all respects.

“Architect” shall mean any licensed architect, space planner or design professional that the Borrower may engage from time to time, with the Written Approval of the Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

“Architect’s Agreement” means any agreement that the Borrower and any Architect from time to time may execute pursuant to which the Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by the Funding Lender.

“Authorized Borrower Representative” shall mean a person at the time designated and authorized to act on behalf of the Borrower by a Written Certificate furnished to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“Authorized Governmental Lender Representative” shall mean (a) when used with respect to the Governmental Lender, the Mayor, the Director of the Mayor’s Office of Housing and Community Development, the Director of Housing Development and the Deputy Director of the Mayor’s Office of Housing and Community Development of the Governmental Lender and such additional Person or Persons, if any, duly designated by the Governmental Lender in writing to act on its behalf, as evidenced by a written certificate furnished to the Funding Lender, the Fiscal Agent and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative, which certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative; (b) when used with respect to the Borrower, any general partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Fiscal Agent, any authorized signatory of the Fiscal Agent, or any Person who is authorized in writing to take the action in question on behalf of the Fiscal Agent, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, (e) when used with respect to the Funding Lender Representative, any Person who is authorized in writing to take the action in question on behalf of the Funding Lender Representative, and (f) when used with respect to MOHCD, any Person authorized to act on behalf of MOHCD under the MOHCD Loan Agreement.

“Bankruptcy Code” shall mean the United State Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Bankruptcy Event” shall mean the occurrence of any of the following; (i) if the Borrower, the General Partner, or any Guarantor files a voluntary petition in bankruptcy under Title 11 of the United States Code, or (ii) an order for relief shall be issued against any such Borrower, General Partner, or Guarantor in any involuntary petition in bankruptcy under Title 11 of the United States Code, or (iii) if the Borrower, the General Partner, or any Guarantor shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or

similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief of debtors, or (vi) if the Borrower, the General Partner, or any Guarantor shall seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, conservator or liquidator of the same, or of all or any substantial part of its respective property, or (v) if the Borrower, the General Partner, or any Guarantor shall make an assignment for the benefit of creditors, or (vi) if the Borrower, the General Partner, or any Guarantor shall give notice to any governmental authority or body of insolvency or pending insolvency or suspension of operation.

“Bankruptcy Proceeding” shall have the meaning set forth in Section 4.1.8 hereof.

“Beneficiary Parties” shall mean, collectively, the Funding Lender, the Servicer and the Governmental Lender.

“Borrower” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Borrower Affiliate” means, as to the Borrower, a general partner or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, twenty percent (20%) or more of the outstanding voting securities of the Borrower, a general partner or the Guarantor, (ii) any corporation twenty percent (20%) or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, a general partner or the Guarantor, (iii) any partner, shareholder or, if a limited liability company, member of the Borrower, its general partner or the Guarantor, or (iv) any other person that is related (to the third degree of consanguinity) by blood or marriage to the Borrower, a general partner or the Guarantor (to the extent any of the Borrower, a general partner or the Guarantor is a natural person).

“Borrower Controlling Entity” shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower, or if the Borrower is a not for profit corporation, the members thereof.

“Borrower Required Equity” shall mean the Equity Contributions to be made by the Equity Investor to the Borrower pursuant to the Partnership Agreement, in accordance with the following schedule:

Amount	Date
[\$_____]	On or before the Closing Date
[\$_____]	[_____]
[\$_____]	[_____]
[\$_____]	[_____]
[\$_____]	Total

“Borrower Loan” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“Borrower Loan Agreement” shall mean this Borrower Loan Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Borrower Loan Amount” shall mean \$[PAR], the maximum principal amount of the Borrower Note.

“Borrower Loan Documents” shall mean this Borrower Loan Agreement, the Construction Disbursement Agreement, the Supplemental Loan Agreement, the Borrower Note, the Security Instrument, the Agreement of Environmental Indemnification, the Guaranty, the Replacement Reserve Agreement, the Subordinate Loan Documents, the Subordination Agreement, and all other documents or agreements evidencing, securing, guarantying or relating to the Borrower Loan.

“Borrower Loan Payment Date” shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, or (ii) any other date on which the Borrower Note is prepaid or paid, whether at the scheduled maturity, prepayment, upon the acceleration of the maturity thereof or otherwise.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Loan Proceeds” shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Section 2.10 of this Borrower Loan Agreement and the Construction Disbursement Agreement.

“Borrower Note” shall mean that certain Promissory Note dated as of the Closing Date in the original maximum principal amount of the Borrower Loan Amount made by the Borrower and payable to the Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Borrower Payment Obligations” shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in New York, New York, or the city where the Fiscal Agent is located, are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Calculation Period” shall mean three (3) consecutive full Calendar Months occurring prior to the Conversion Date, as the same may be extended in accordance with Section 3.1 hereof.

“Calendar Month” shall mean each of the twelve (12) calendar months of the year.

“CC&R’s” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Property.

“CCRC” shall mean California Community Reinvestment Corporation, a California nonprofit public benefit corporation, or any assignee of an assignment by the California Community Reinvestment Corporation to (a) Fannie Mae or Freddie Mac, (b) a member bank in the California Community Reinvestment Corporation, or (c) a fund established and managed by California Community

Reinvestment Corporation or by a single member limited liability company in which California Community Reinvestment Corporation is a sole member and in which all investors/funders are banks, insurance companies or other financial institutions or affiliates of such entities, each of which is an Approved Transferee and has net assets of not less than \$1,000,000,000.00 and any successors or assigns of the foregoing.

“City” shall mean the City of San Francisco.

“Civil Asset Forfeiture Reform Act” means the Civil Asset Forfeiture Reform Act of 2000 (18 U.S.C. Sections 983 et seq.), as amended from time to time, and any successor statute.

“Closing Costs Fund” shall mean the Closing Costs Fund held by the Fiscal Agent created pursuant to the Funding Loan Agreement.

“Closing Date” means [Closing Date], the date that the initial Borrower Loan Proceeds are disbursed hereunder.

“Code” shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Collateral” shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Governmental Lender or the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement or any other Borrower Loan Documents), (ii) the Security Instrument, or (iii) any other Security Document, which collateral shall include the Project, all of which collateral is pledged and assigned to the Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“Completion” shall have the meaning set forth in Section 5.25 hereof.

“Completion Date” shall have the meaning ascribed thereto in the Construction Disbursement Agreement.

“Computation Date” shall have the meaning ascribed thereto in Section 1.148-3(e) of the Regulations.

“Condemnation” shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“Conditions to Conversion” shall have the meaning ascribed thereto in the Construction Disbursement Agreement.

“Construction Contract” shall mean any agreement that the Borrower and any Contractor from time to time may execute pursuant to which the Borrower engages the Contractor to construct any portion of the Improvements, as approved by the Funding Lender.

“Construction Disbursement Agreement” means that certain Construction Disbursement Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and the Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the

Servicer on its behalf), as agent of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Construction Inspector” shall mean a third-party architect or engineer selected and retained by the Funding Lender, at the cost and expense of the Borrower, to monitor the progress of construction of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

“Construction Phase Amount” shall mean \$[PAR].

“Construction Schedule” shall mean a schedule of construction progress with the anticipated commencement and completion dates of each phase of construction and the anticipated date and amounts of each Disbursement for the same, as approved by the Funding Lender, as assignee of the Governmental Lender.

“Contractor” shall mean any licensed general contractor or subcontractor that the Borrower may directly engage from time to time, with the Written Approval of the Funding Lender, to construct any portion of the Improvements.

“Contractual Obligation” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“Controlled Substances Act” means the Controlled Substances Act (21 U.S.C. Sections 801 et seq.), as amended from time to time, and any successor statute.

“Conversion” shall mean the Funding Lender’s determination that the Conditions to Conversion have been satisfied in accordance with the provisions of this Borrower Loan Agreement and the Construction Disbursement Agreement.

“Conversion Date” shall mean the date to be designated by the Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with Section 3.3 hereof and the Construction Disbursement Agreement have been made; provided that the Conversion Date must occur no later than the Outside Conversion Date (as can be extended).

“Cost Breakdown” shall mean the schedule of costs for the Improvements, as set forth in the Construction Disbursement Agreement and as the same may be amended from time to time with the Funding Lender’s Written Consent.

“Costs of Funding” shall mean the Governmental Lender’s Closing Fee and the fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of the Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, the Borrower’s counsel, the Funding Lender’s counsel and the Fiscal Agent’s counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) any recording fees; (v) any additional fees charged by the Governmental Lender; (vi)

any Fiscal Agent Fees; and (vii) costs incurred in connection with the required public notices generally and costs of the public hearing.

“Costs of Funding Deposit” shall mean the amount required to be deposited by the Borrower with the Fiscal Agent into the Closing Costs Fund to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

“Cost of Improvements” shall mean the costs for the Improvements, as set forth on the Cost Breakdown.

“County” shall mean County of San Francisco, California.

“Date of Disbursement” shall mean the date of a Disbursement.

“Debt” shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“Default Rate” shall have the meaning given to that term in the Borrower Note.

“Determination of Taxability” shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Note issued by the National Office of the Internal Revenue Service in which the Governmental Lender and the Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Note, other than a holder who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one (1) year from the date of initial determination.

“Developer” shall mean Mercy Housing California.

“Developer Fee” shall mean the fees and/or compensation payable to the Developer pursuant to the [Development Services Agreement] dated [Date], between the Borrower and the Developer, which fees and/or compensation shall not be paid prior to the Conversion Date except as otherwise permitted pursuant to Section 6.13(b) hereof.

“Disbursement” means a disbursement of the Borrower Loan Proceeds and Other Borrower Moneys pursuant to this Borrower Loan Agreement.

“Engineer” shall mean any licensed civic, structural, mechanical, electrical, soils, environmental or other engineer that the Borrower may engage from time to time, with the Written Approval of the Funding Lender, to perform any engineering services with respect to any portion of the Improvements.

“Engineer’s Contract” shall mean any agreement that the Borrower and any Engineer from time to time may execute pursuant to which the Borrower engages the Engineer to perform any engineering services with respect to any portion of the Improvements, as approved by the Funding Lender.

“Equipment” shall have the meaning given to the term “Personalty” in the Security Instrument.

“Equity Contributions” shall mean the Borrower Required Equity and any other equity to be contributed by the Equity Investor to the Borrower, in accordance with and subject to the terms of the Partnership Agreement.

“Equity Investor” shall mean Bank of America, N.A. and any successors or assigns thereof.

“ERISA” shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated hereunder.

“ERISA Affiliate” shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“Event of Default” shall mean any Event of Default set forth in Section 7.1 of this Borrower Loan Agreement. An Event of Default shall “exist” if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“Excess Revenues” shall mean, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory prepayment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to any agreement, but excluding depreciation and amortization of intangibles.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Expenses of the Project” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in any repair and replacement fund held pursuant to the Borrower Loan Documents), a management fee (however characterized) not to exceed [____] percent [(__%)] of Gross Income, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any

subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Extended Outside Conversion Date” shall have the meaning set forth in the Construction Disbursement Agreement.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Fiscal Agent” shall mean [Fiscal Agent], a [fiscal agent entity], in its capacity as the Fiscal Agent to the Governmental Lender, its successors and assigns.

“Fiscal Agent Fees” shall have the meaning set forth in the Funding Loan Agreement.

“Fitch” shall mean Fitch, Inc.

“Funding Lender” shall mean Bank of America, N.A., a national banking association, and any successor in its capacity of lender under the Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan” means the Funding Loan in the maximum principal amount of \$[PAR] made by the Funding Lender to the Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, among the Governmental Lender, the Fiscal Agent and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall mean the Funding Loan Agreement, the Borrower Loan Documents, the Regulatory Agreement, the Tax Certificate, all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and all amendments, modifications, renewals and substitutions of any of the foregoing.

“GAAP” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“General Partner” shall mean each of (i) Mercy Housing Calwest, a California nonprofit public benefit corporation, (ii) SFHDC 455 Fell LLC, a California limited liability company, and/or (iii) any

other Person that the partners of the Borrower, with the prior Written Approval of the Funding Lender (or as otherwise permitted with the Funding Lender's Written Approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

"Governmental Authority" shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

"Governmental Lender" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"Governmental Lender Note" shall mean that certain Governmental Lender Note dated the Closing Date in the original maximum principal amount of the Funding Loan, made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Governmental Lender's Closing Fee" shall mean [Issuance Fee]. The Governmental Lender's Closing Fee is payable to the Governmental Lender on the Closing Date pursuant to Section 2.3(c)(iii) hereof.

"Gross Income" shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of the Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, Equity Contributions, or tenant security deposits being held by the Borrower in accordance with applicable law.

"Gross Proceeds" shall mean, without duplication, the aggregate of:

(a) the net amount (after payment of all expenses of originating the Funding Loan) of the Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

"Ground Lease" shall mean [_____].

"Guarantor" shall mean Mercy Housing California, a California nonprofit public benefit corporation and Mercy Housing, Inc., a Nebraska not-for-profit corporation or any other person or entity which may hereafter become a guarantor of any of the Borrower's obligations under the Borrower Loan.

“Guaranty” shall mean [, collectively, (i)] the Guaranty Agreement, of even date herewith, by the Guarantor for the benefit of the Beneficiary Parties [, and (ii) the Exceptions to Non-Recourse Guaranty, of even date herewith, by the Guarantor for the benefit of the Beneficiary Parties].

“Improvements” shall mean the 108-unit (including 1 manager’s unit) multifamily residential rental project to be constructed upon the Land and known or to be known as 455 Fell Street Apartments, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be constructed and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

“Indemnified Party” shall have the meaning set forth in Section 5.15 hereof.

“Installment Computation Date” shall mean any Computation Date other than the first Computation Date or the final Computation Date.

“Interest Rate” shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“Land” means the real property described on Exhibit A to the Security Instrument.

“Late Charge” shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note, as provided in Section 7 of the Borrower Note and Sections 2.5 and 2.6 hereof.

“Legal Action” shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“Legal Requirements” shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of the Governmental Authorities affecting all or part of the Project or any property (including the Project) or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof. Legal Requirements shall include the Controlled Substances Act.

“Liabilities” shall have the meaning set forth in Section 5.15 hereof.

“Licenses” shall have the meaning set forth in Section 4.1.22 hereof.

“Lien” shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“Loan Purchase Agreement” shall mean the Loan Purchase Agreement dated as of [October 1, 2017], among the Borrower, Initial Funding Lender and CCRC, pursuant to which and subject to the

terms and conditions therein, CCRC has agreed to purchase up to [\$Amount] principal amount of the Funding Loan on the Conversion Date.

“Management Agreement” shall mean the Management Agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Manager” shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

“Material Adverse Change” means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations or prospects of the Borrower, the General Partner, the Guarantor or the Property; (c) could reasonably be expected to impair materially the ability of the Borrower, the General Partner or the Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of the Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Net Operating Income” shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

“Nonpurpose Investment” shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

“OFAC” means the U.S. Department of Treasury’s Office of Foreign Assets Control.

“Ongoing Governmental Lender Fee” shall have the meaning set forth in the Funding Loan Agreement.

“Other Borrower Moneys” shall mean moneys of the Borrower other than the Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, the Net Operating Income, the Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Project.

“Other Charges” shall mean all maintenance charges, impositions other than taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Outside Conversion Date” shall have the meaning set forth in the Construction Disbursement Agreement.

“Partnership Agreement” shall mean that certain Amended and Restated Agreement of Limited Partnership of the Borrower dated as of [Date], as the same may be amended, restated or modified in accordance with its terms.

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“Patriot Act Offense” shall have the meaning set forth in Section 4.1.48 hereof.

“Permanent Period” shall mean the period of time from the Conversion Date to the Maturity Date (as defined in the Funding Loan Agreement).

“Permanent Period Amount” shall mean the principal amount of the Borrower Loan following the calculation provided for in the Loan Purchase Agreement.

“Permitted Encumbrances” shall have the meaning given to that term in the Security Instrument.

“Permitted Lease” shall mean a lease and occupancy agreement pursuant to the form approved by the Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

“Person” shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“Plan” shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“Plans and Specifications” shall mean the plans and specifications for the construction of the Project approved by the Funding Lender.

“Potential Default” shall mean the occurrence of an event which, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice of passage of time, be an Event of Default.

“Prepayment Premium” shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

“Project” shall mean the Property (as defined in the Security Instrument) and the Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to therein as the “Property.”

“Project Agreements and Licenses” shall mean any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Property.

“Project Fund” shall mean the Project Fund held by the Fiscal Agent created pursuant to the Funding Loan Agreement.

“Property” shall have the meaning given to that term in the Security Instrument.

“Provided Information” shall have the meaning set forth in Section 8.1.1 (a) hereof.

“Qualified Project Costs” shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be a so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Regulations, provided, however, that only such portion of the interest accrued during construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the Completion Date shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing the Project (or any portion thereof) and (B) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an “affiliated group” (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of sixty (60) days prior to June 7, 2016, being the date on which the Governmental Lender first declared its “official intent” to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Regulations) or the date of issue of the Funding Loan, and (iv) if the costs of the acquisition and construction of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) “preliminary expenditures” (within the meaning of Section 1.150-2(f)(2) of the Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction of the Project that do not exceed twenty percent (20%) of the issue price of the Funding Loan (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditures is paid); provided, however, that (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, any Developer Fee) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Project Costs.

“Rating Agency” shall mean any one and each of S&P, Moody’s and Fitch or any other nationally recognized statistical rating agency approved by the Funding Lender.

“Rebate Amount” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” shall mean the rebate analyst selected by the Borrower prior to the Closing Date and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be [Rebate Analyst].

“Rebate Analyst’s Fee” shall mean the annual fee of the Rebate Analyst in the amount of [\$Rebate Analyst Fee]. The Rebate Analyst’s Fee is payable by the Borrower to the Rebate Analyst, commencing [Date], every fifth (5th) anniversary thereof, and the Maturity Date or the date the Funding Loan is retired in full.

“Rebate Fund” shall mean the Rebate Fund held by the Fiscal Agent created pursuant to the Funding Loan Agreement.

“Regulations” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” shall mean that certain Regulatory Agreement, dated as of the date hereof, by and between the Governmental Lender and the Borrower, as hereafter amended or modified.

“Related Documents” shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), the Partnership Agreement, and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement.

[“Replacement Reserve Agreement” shall mean any Replacement Reserve Agreement between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.]

[“Replacement Reserve Fund Requirement” means the Borrower’s funding obligations from time to time under the Replacement Reserve Agreement.]

“Retainage” shall mean, the actual retainage required under such Construction Contract, which shall be released upon satisfaction of the conditions set forth in the Construction Disbursement Agreement.

“Sanctions” means, collectively, any sanctions administered or enforced by the United States Government, including OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority.

“Secondary Market Disclosure Document” shall have the meaning set forth in Section 8.1.2 hereof.

“Secondary Market Transaction” shall have the meaning set forth in Section 8.1.1 hereof.

“Securities” shall have the meaning set forth in Section 8.1.1 hereof.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Security Instrument, the [Replacement Reserve Agreement], this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other

assignment, pledge or security instruments or agreements that secure all or any portion of the Borrower Loan, including those more particularly described in the Construction Disbursement Agreement.

“Security Instrument” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Servicer” shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be the Funding Lender.

“Servicing Agreement” shall mean any servicing agreement or master servicing agreement, between the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

“Stabilization” shall have the meaning given such term in the Construction Disbursement Agreement.

“Standard & Poor’s” or “S&P” shall mean Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business division, or its successors.

“State” shall mean the State of California.

[“Subordinate Debt” shall mean the subordinate [construction/permanent] loan to the Borrower in the amount of [\$Subordinate Debt] being made by the Subordinate Lender as of the Closing Date pursuant to the Subordinate Loan Documents.]

[“Subordinate Lender” shall mean California Department of Housing and Community Development [and, ____], together with its successors and assigns.]

[“Subordinate Loan Documents” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by the Borrower and/or the Subordinate Lender in connection with the Subordinate Debt, as the same may be amended, restated, supplemented or otherwise with the Funding Lender’s Written Consent.]

[“Subordination Agreement” shall mean that certain Subordination [and Intercreditor] Agreement of even date herewith by and among Governmental Lender, Funding Lender, Subordinate Lender and Borrower, as amended, restated, supplemented or otherwise modified.]

“Substantial Completion Date” means the date that is three (3) months prior to the Completion Date.

“Substantially Complete” or “Substantially Completed” means the Funding Lender has determined that construction of the Improvements is sufficiently complete such that the Improvements can be occupied by tenants as a multifamily residential rental project.

“Supplemental Loan Agreement” has the meaning ascribed to such term in the Funding Loan Agreement.

“Tax Counsel” shall have the meaning set forth in the Funding Loan Agreement.

“Taxes” shall mean all taxes, including real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project.

“Term” shall mean the term of this Borrower Loan Agreement pursuant to Section 9.14 hereof.

“Title Company” means [Title Company].

“Title Insurance Policy” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Property and insuring the lien of the Security Instrument.

“Transfer” shall have the meaning given to that term in the Security Instrument.

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unit” shall mean a residential apartment unit within the Improvements.

“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Approval,” “Written Registration,” “Written Request,” and “Written Requisition” shall mean a written certificate, direction, notice, order, request or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative, an authorized representative of the Servicer, an authorized representative of the Fiscal Agent or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent, the Governmental Lender or such other Person as required under the Funding Loan Documents.

“Yield” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

ARTICLE II

GENERAL

Section 2.1 Origination of the Borrower Loan. In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, in accordance with the Act, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender, on behalf of the Governmental Lender, to the Fiscal Agent in accordance with the terms of the Construction Disbursement Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan to the Fiscal Agent (which shall disburse any amounts so received to the Borrower) for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to the Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to the Funding Lender pursuant to this Section 2.1.

Section 2.2 Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Note and all of

its right, title and interest in and to this Borrower Loan Agreement and the other Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (b) the amounts on deposit from time to time in any and all funds and accounts established under the Funding Loan Agreement (except the Expense Fund, the Rebate Fund and the Closing Costs Fund). All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) Tax Covenants. Seek specific performance of, and enforce, the tax covenants of the Funding Loan Agreement, the Regulatory Agreement, the Tax Certificate and this Borrower Loan Agreement, injunctive relief against acts which may be in violation of any of the tax covenants, and enforce the Borrower's obligation to pay amounts for credit to the Rebate Fund;

(ii) Regulatory Agreement. Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues, if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) Reserved Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express Written Direction of the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by the Funding Lender, the Fiscal Agent or the Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Funding Loan Documents.

Section 2.3 Loan; Borrower Note; Conditions to Closing.

(a) The Funding Loan shall be funded directly to the Fiscal Agent by the Funding Lender for disbursement by the Fiscal Agent to the Borrower pursuant to the Construction Disbursement Agreement, in one or more installments not to exceed the Borrower Loan Amount in accordance with the disbursement procedures set forth in the Construction Disbursement Agreement and the Funding Loan Agreement. Upon funding of each installment of the Funding Loan, the Governmental Lender shall be deemed to have made the Borrower Loan to the Borrower in a like principal amount. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition, construction, development and equipping of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement and the Construction Disbursement Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender to the Fiscal Agent for the account of the Governmental Lender.

Proceeds of the Borrower Loan will be deposited by the Funding Lender in the Note Proceeds Account and the Capitalized Interest Account of the Project Fund and Borrower Required Equity shall be deposited by the Borrower in the Borrower Equity Account and the Capitalized Interest Account of the Project Fund all to be held by the Fiscal Agent under the Funding Loan Agreement from time to time for disbursement by the Fiscal Agent to the Borrower upon receipt of a Written Requisition in accordance with the terms of the Funding Loan Agreement and the Construction Disbursement Agreement and approved by Funding Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with the delivery of this Borrower Loan Agreement to the Governmental Lender, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(c) Closing of the Borrower Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in their sole discretion of each of the conditions precedent to closing set forth in the Funding Loan Agreement and this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from the Funding Lender's counsel or such other counsel as may be acceptable to the Funding Lender);

(ii) delivery into escrow with the Fiscal Agent or the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and any Borrower Required Equity, all as

specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender or Tax Counsel;

(iii) payment of all fees payable in connection with the closing of the Borrower Loan including the Governmental Lender's Closing Fee and the initial fees and expense of the Fiscal Agent and the Funding Lender; and

(iv) delivery of an opinion of counsel to the Borrower and Guarantor addressed to the Governmental Lender, the Fiscal Agent and the Funding Lender, dated the Closing Date, regarding (among other things) the due execution by the Borrower and Guarantor of, and the enforceability against the Borrower and Guarantor of, the Funding Loan Documents to which the Borrower and Guarantor is a party.

Section 2.4 Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Fiscal Agent by 2:00 p.m., New York City time, on the Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent by deposit to such account as the Fiscal Agent may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first (1st) Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) The Funding Lender shall provide a copy of the debt service schedule (the "Debt Service Schedule") which it prepares in connection with the commencement of amortization of the Borrower Loan to the Fiscal Agent and Governmental Lender.

(c) Payments of principal and interest on the Borrower Note shall be paid directly to the Fiscal Agent.

Section 2.5 Additional Borrower Payments.

(a) The Borrower shall pay on demand the following amounts:

(i) to the Fiscal Agent, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Fiscal Agent, for payment to the Governmental Lender, the Ongoing Governmental Lender Fee and all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred under the Funding Loan Documents, and any Taxes and assessments with respect to the Project, as and when the same become due;

(iii) to the Fiscal Agent, the Fiscal Agent Fees;

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit. Borrower acknowledges that Funding Lender may receive a benefit, including a discount, credit or other accommodation, from outside counsel based on the fees such counsel receive on account of their relationship with Funding Lender, including fees paid pursuant hereto; and

(vi) any Late Charge due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement, the Supplemental Loan Agreement or the other Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement, the Supplemental Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement, the Supplemental Loan Agreement or any other Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Fiscal Agent, the Funding Lender, the Servicer or the Construction Inspector, in accordance with the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6 Overdue Payments; Payments in Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the party to whom such payment is required to be made, a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

Section 2.7 Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds. The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such

replacement reserve fund, such deficiency shall be immediately due and payable hereunder by the Borrower following Written Notice to the Borrower.

Section 2.8 Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in all the Borrower's right, title and interest in and to all rents and payments to or moneys held in the funds and accounts created and held by the Fiscal Agent, the Funding Lender or the Servicer for the Project. The Borrower also grants to the Funding Lender a continuing security interest in all rents in its possession prior to the payment of rents or any portion thereof to the Fiscal Agent, the Funding Lender or the Servicer (to the extent that the Borrower is required to pay such rents to the Fiscal Agent, the Funding Lender or the Servicer). Except for any subordinate pledges made in accordance with the terms of the Subordinate Loan Documents, the Borrower shall not, without obtaining the prior Written Consent of the Funding Lender, further pledge, assign or grant any security interest in the rents, or permit any Lien to attach thereto, or any levy to be made thereon, or any UCC-1 Financing Statements, except those naming the Funding Lender as the secured party, to be filed with respect thereto. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Fiscal Agent, the Funding Lender, the Governmental Lender and the Servicer shall apply or cause to be applied any sums held by the Funding Lender, the Fiscal Agent, the Governmental Lender and the Servicer, as the case may be, with respect to the Project in any manner and in any order determined by the Funding Lender, in the Funding Lender's sole and absolute discretion.

Section 2.9 Marshalling; Payments Set Aside. The Governmental Lender, the Fiscal Agent and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Fiscal Agent, the Governmental Lender or the Funding Lender, or the Governmental Lender, the Fiscal Agent or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Fiscal Agent, the Governmental Lender or the Funding Lender and any and all remedies available to the Fiscal Agent, the Governmental Lender or the Funding Lender under the terms of the Funding Loan Documents or in law or equity against the Borrower, the Guarantor or the General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Fiscal Agent, the Governmental Lender and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Fiscal Agent, the Governmental Lender or the Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Fiscal Agent, the Governmental Lender or the Funding Lender in connection with the exercise by the Fiscal Agent, the Governmental Lender or the Funding Lender of its rights under this Section 2.9.

Section 2.10 Borrower Loan Disbursements. The Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Disbursement Agreement.

ARTICLE III

CONVERSION

Section 3.1 Conversion Date and Extension of Outside Conversion Date. The Borrower shall satisfy each of the Conditions to Conversion to occur and cause the Conversion Date to occur on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if any), as further provided in the Construction Disbursement Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date shall constitute an Event of Default under the Borrower Loan Documents.

Section 3.2 Notice from the Funding Lender; Funding Lender's Calculation Final.

(a) Following satisfaction of all of the Conditions to Conversion, the Funding Lender shall deliver Written Notice to the Borrower and the Fiscal Agent of: (i) the Conversion Date, (ii) the amount of the Permanent Period Amount, (iii) any required prepayment of the Borrower Note (as described below in Section 3.3) and (iv) any amendments to the amortization schedule, as applicable.

(b) The Funding Lender's calculation of the Permanent Period Amount and any amendments to the amortization of the Borrower Loan shall be, in the absence of manifest error, conclusive and binding on all parties.

Section 3.3 Mandatory Prepayment of the Borrower Loan.

(a) As further provided in the Construction Disbursement Agreement, if and to the extent the Permanent Period Amount is less than the Construction Phase Amount, the Funding Lender may in its sole discretion require the Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Construction Phase Amount and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment"), provided, however, that if the Permanent Period Amount is less than the Minimum Permanent Period Amount (as defined in the Construction Disbursement Agreement), then the Funding Lender may in its sole discretion require the Borrower to prepay the Borrower Loan in full.

(b) Any prepayment in full or in part of the Borrower Loan required pursuant to Section 3.3(a) above shall be subject to a Prepayment Premium under certain circumstances as more particularly set forth in the Borrower Note.

Section 3.4 Release of Remaining Loan Proceeds. If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to the Borrower, the Funding Lender shall deliver Written Notice thereof to the Borrower on or before the Conversion Date. Within ten (10) Business Days after delivery of such notice, but in no event later than the Outside Conversion Date, the Funding Lender shall disburse the Borrower Loan proceeds to the Fiscal Agent for disbursement to the Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Amounts so disbursed shall be applied to pay or reimburse previously incurred Qualified Project Costs in accordance with the Funding Loan Agreement and this Borrower Loan Agreement.

Section 3.5 No Amendment. Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Note, the Security Instrument, the Construction Disbursement Agreement, the Supplemental Loan Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Note, the Security Instrument, the Construction Disbursement Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Note, the Security Instrument, the Construction Disbursement Agreement, the Supplemental Loan Agreement and other Borrower Loan Documents shall control, provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6 Determinations by the Funding Lender. In any instance where the Written Consent or Written Approval of the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Funding Lender under this Article III, including in connection with the Construction Disbursement Agreement, or the Supplemental Loan Agreement, the granting, withholding or denial of such Written Consent or Written Approval and the rendering of such determination, judgment or decision shall be made or exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Borrower Representations. To induce the Governmental Lender and the Fiscal Agent to execute this Borrower Loan Agreement and to induce the Funding Lender to approve Disbursements, the Borrower, and each General Partner, as applicable, represents and warrants for the benefit of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and will be complete and accurate, and deemed remade, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Conversion Date and the Maturity Date in accordance with the terms and conditions of the Borrower Note. Subject to Section 4.2 hereof, the representations, warranties and agreements set forth in this Section 4.1 shall survive the making of the Borrower Loan, and shall remain in effect and true and correct in all material respects until the Borrower Loan and all other Borrower Payment Obligations have been repaid in full. Any representation by a General Partner herein shall be deemed made solely with respect to it.

Section 4.1.1 Organization; Special Purpose. The Borrower is in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper corporate, limited partnership or limited liability company action, as appropriate, has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Authorized Borrower Representative executing the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

Section 4.1.2 Proceedings; Enforceability. Assuming due execution and delivery by the other parties thereto, the Funding Loan Documents to which the Borrower is a party will constitute the

legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

Section 4.1.3 No Conflicts. The execution and delivery of the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, its bylaws or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

Section 4.1.4 Litigation; Adverse Facts. There is no Legal Action, nor is there a basis known to the Borrower for any Legal Action, before or by any court or federal, state, municipal or other Governmental Authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Funding Loan Documents, upon the ability of each of the Borrower, the General Partner and the Guarantor to perform their respective obligations under the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other Governmental Authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Funding Loan Documents, the ability of each of the Borrower, the General Partner and the Guarantor to perform their respective obligations under the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; or (c) in default with respect to any agreement to which the Borrower, the General Partner or the Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, the General Partner or the Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower

have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

Section 4.1.5 Agreements; Consents; Approvals. Except as contemplated by the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

Section 4.1.6 Title. The Borrower shall have marketable leasehold title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee (or leasehold, if applicable) interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property Taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Funding Loan Documents.

Section 4.1.7 Survey. To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

Section 4.1.8 No Bankruptcy Filing. The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

Section 4.1.9 Full and Accurate Disclosure. No statement of fact made by the Borrower in any Borrower Loan Document or in any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements made therein in light of the circumstances under which they were made, not misleading. There is no material fact or circumstance known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations under

this Borrower Loan Agreement and the other Funding Loan Documents to which it is a party in a timely manner.

Section 4.1.10 No Plan Assets. The Borrower is not an “employee benefit plan,” as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute “plan assets” of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

Section 4.1.11 Compliance. The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. Neither the Borrower nor any Affiliate involved with the operation or use of the Project has committed any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower’s obligations under any Funding Loan Document.

Section 4.1.12 Contracts. All service, maintenance or repair contracts affecting the Project have been entered into at arm’s length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower’s business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

Section 4.1.13 Financial Information. All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Funding Loan Documents or the Related Documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

Section 4.1.14 Condemnation. No Condemnation or other proceeding has been commenced or, to the Borrower’s knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

Section 4.1.15 Federal Reserve Regulations. No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Funding Loan Document.

Section 4.1.16 Utilities and Public Access. To the best of the Borrower’s knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid

easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

Section 4.1.17 Not a Foreign Person. The Borrower is not a "foreign person" within the meaning of §1445(f)(3) of the Code.

Section 4.1.18 Separate Lots. Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

Section 4.1.19 Assessments. There are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

Section 4.1.20 Enforceability. The Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

Section 4.1.21 Insurance. The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

Section 4.1.22 Use of Property; Licenses. The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, which use is consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the "Licenses") required at this time for the acquisition, construction, development and equipping of the Project have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of the Project.

Section 4.1.23 Flood Zone. Either all Improvements will be constructed above the flood grade or the Borrower will obtain appropriate flood insurance as directed by the Servicer.

Section 4.1.24 Physical Condition. The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are or, after completion of the construction will be in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

Section 4.1.25 Encroachments. All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

Section 4.1.26 State Law Requirements. The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable State laws relating to the Borrower Loan, the Funding Loan and the Project.

Section 4.1.27 Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Funding Loan Documents have been or will be paid.

Section 4.1.28 Investment Company Act. The Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; or (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

Section 4.1.29 Fraudulent Transfer. The Borrower has not accepted the Borrower Loan or entered into any Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Funding Loan Documents. Giving effect to the transactions contemplated by the Funding Loan Documents, the fair saleable value of the Borrower's assets exceeds and will, immediately following the execution and delivery of the Funding Loan Documents, exceed the Borrower's total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower's assets is and will, immediately following the execution and delivery of the Funding Loan Documents, be greater than the Borrower's probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower's assets do not and, immediately following the execution and delivery of the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

Section 4.1.30 Ownership of the Borrower. Except as set forth in the Partnership Agreement of the Borrower, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in it.

Section 4.1.31 Environmental Matters. To the best of the Borrower's knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Closing Date.

Section 4.1.32 Name; Principal Place of Business. Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 9.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

Section 4.1.33 Subordinated Debt. There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted indebtedness described in Section 6.7 hereof, except an unsecured deferred developer fee not to exceed the amount permitted by the Funding Lender as determined on the Closing Date.

Section 4.1.34 Filing of Taxes. The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

Section 4.1.35 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 4.1.36 Approval of the Funding Loan Documents. By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Funding Loan Documents, the Related Documents, the Security Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in any manner.

Section 4.1.37 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the other Funding Loan Documents.

Section 4.1.38 Americans with Disabilities Act. The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of Governmental Authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA"), to the extent required (as evidenced by an architect's certificate to such effect).

Section 4.1.39 Requirements of Act, Code and Regulations. The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

Section 4.1.40 Regulatory Agreement. The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

Section 4.1.41 Intention to Hold Project. The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 4.1.42 Concerning the General Partner. Any representation by a General Partner herein shall be deemed made solely with respect to it.

(a) The General Partner of the Borrower is, collectively, Mercy Housing Calwest and SFHDC 455 Fell LLC, each duly organized and validly existing under the laws of the State. The General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Funding Loan Documents to be executed by the General Partner for its own account and on behalf of the Borrower, as General Partner of the Borrower, under this Borrower Loan Agreement and the other Funding Loan Documents.

(b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of the General Partner.

(c) The General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by the Borrower of the Funding Loan Documents have been duly authorized by all necessary action of the General Partner on behalf of the Borrower, and by all necessary action on behalf of the General Partner.

(e) The execution, delivery and performance by the General Partner, on behalf of the Borrower, of the Funding Loan Documents will not violate (i) the General Partner's organizational documents; (ii) any other Legal Requirement affecting the General Partner or any of its properties; or (iii) any agreement to which the General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to the Funding Lender pursuant to the Security Documents.

Section 4.1.43 Government and Private Approvals. All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, use, occupancy and

operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the construction of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of the Borrower, are required for the due execution, delivery and performance by the Borrower or the General Partner of any of the Funding Loan Documents or the Related Documents executed by the Borrower or the General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

Section 4.1.44 Concerning the Guarantor. The Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by the Guarantor and are legally valid and binding obligations of the Guarantor, enforceable against the Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

Section 4.1.45 No Material Defaults. Except as previously disclosed to the Funding Lender in writing, there exists no material violation of or material default by the Borrower under, and, to the best knowledge of the Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which the Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which the Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of the Borrower, the General Partner or the Guarantor or to perform any of its respective obligations under any of the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Funding Loan Documents.

Section 4.1.46 Payment of Taxes. Except as previously disclosed to the Funding Lender in writing: (i) all tax returns and reports of the Borrower, the General Partner and the Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon the Borrower, the General Partner and the Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against the General Partner or the Guarantor that would be material to the condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, and neither the Borrower nor the General Partner have contracted with any Government Authority in connection with such taxes.

Section 4.1.47 Rights to Project Agreements and Licenses. The Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. The Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Funding Loan Documents or as otherwise approved by the Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

Section 4.1.48 Patriot Act Compliance. The Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified the Borrower in writing is now included in "Government Lists", or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Government Authority or pursuant to any Executive Order of the President of the United States of America that Funding Lender notified the Borrower in writing is now included in "Government Lists". Neither the Borrower nor any of its subsidiaries is located, organized or resident in a country or territory that is the subject of Sanctions.

Section 4.1.49 Rent Schedule. The Borrower has prepared a prospective Unit absorption and rent collection schedule with respect to the Project substantially in the form attached as an exhibit to the Construction Disbursement Agreement, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and (ii) any and all concessions including free rent periods, and on the basis of such schedule, the Borrower believes it will collect rents with respect to the Project in amounts greater than or equal to debt service on the Borrower Loan.

Section 4.1.50 Other Documents. Each of the representations and warranties of the Borrower or the General Partner contained in any of the other Funding Loan Documents or the Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Funding Loan Documents or the Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of the Governmental Lender and the Funding Lender.

Section 4.1.51 Subordinate Loan Documents. The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the

Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

Section 4.1.52 Ground Lease. The Ground Lease is in full force and effect and the Borrower has paid all rent and other amounts due and payable to the ground lessor thereunder. There exists no material violation of or material default by the Borrower under the Ground Lease, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default by any other party under the Ground Lease.

Section 4.2 Survival of Representations and Covenants. All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender, the Funding Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender, the Funding Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 10.1 hereof.

ARTICLE V

AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer that:

Section 5.1 Existence. The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2 Taxes and Other Charges. The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all taxes and Other Charges of any type or character charged to the Governmental Lender and/or the Funding Lender affecting the amount available to the Governmental Lender and/or the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and Other Charges assessed or levied by any public agency or Governmental Authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Governmental Lender and/or the Funding Lender and taxes based upon or measured by the net income of the Governmental Lender and/or the Funding Lender, as the case may be; provided, however, that the Borrower shall have the right to protest any such taxes or Other Charges and to require the Governmental Lender and/or the Funding Lender, as the case may be, at the Borrower's expense, to protest and contest any such taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Governmental Lender and/or the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3 Repairs; Maintenance and Compliance; Physical Condition. The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4 Litigation. The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

Section 5.5 Performance of Other Agreements. The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project.

Section 5.6 Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Funding Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

Section 5.7 Cooperate in Legal Proceedings. The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and/or the Servicer under any Funding Loan Document.

Section 5.8 Further Assurances. The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 8.1 hereof), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that the Borrower's construction or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the Collateral at any time securing or intended to secure the Borrower Loan, as the Servicer, the Fiscal Agent and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Funding Loan Documents, as the Servicer, the Fiscal Agent or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under

the Funding Loan Documents; and (iv) upon the Servicer's, the Fiscal Agent's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing, pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted by search firms reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender in each of the locations reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender.

Section 5.9 Delivery of Financial Information. After notice to the Borrower of the issuance of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under Article VIII hereof.

Section 5.10 Environmental Matters. So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11 The Governmental Lender's Fees, the Fiscal Agent's Fees and the Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee), the Fiscal Agent (including the Fiscal Agent Fees) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender, the Fiscal Agent or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.12 Estoppel Statement. The Borrower shall furnish to the Funding Lender, the Fiscal Agent or the Servicer for the benefit of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within thirty (30) days of a request by the Funding Lender or the Servicer, tenant estoppel certificates from each commercial tenant at the Project in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

Section 5.13 Defense of Actions. The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Funding Loan Documents, and shall pay, in the manner required by Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which the Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Funding Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of the Funding Lender appears to be prior or superior to the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Funding Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Funding Loan Document in which proceeding the Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14 Expenses. The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer (except as provided in Section 8.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Fiscal Agent's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer (except as provided in Section 8.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under this Borrower Loan Agreement or any other Funding Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Funding Loan Documents.

The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer, as the case may be, of any of its rights or remedies under the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Any obligations of the Borrower to pay for environmental inspections or audits will be governed by the Security Instrument.

Section 5.15 Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of the Governmental Lender, the Fiscal Agent or the Funding Lender pursuant hereto and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Fiscal Agent, the Funding Lender, the Servicer, the Beneficiary Parties and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article VIII hereof);

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

(c) Any lien (other than a Permitted Lien) or charge upon payments by the Borrower to the Governmental Lender, the Fiscal Agent or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender, the Fiscal Agent or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance or hazardous materials from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender, the Fiscal Agent or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Funding Loan Documents;

(f) [Reserved];

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of the Borrower's applying for the Borrower Loan or the Funding Loan or contained in any of the Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by the Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by the Borrower, the General Partner, the Guarantor or their Affiliates to Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent or any other Person in connection with the Borrower's application for the Borrower Loan and the Funding Loan;

(j) any failure (or alleged failure) by the Borrower, the Funding Lender or the Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof; or

(l) the use of the proceeds of the Borrower Loan and the Funding Loan, except in the case of the foregoing indemnification of the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 8.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article VIII hereof shall be limited to the indemnity set forth in Section 8.1.4 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon Written Notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement and the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented in writing to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement.

Section 5.16 No Warranty of Condition or Suitability by the Governmental Lender or the Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either

express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 5.17 Right of Access to the Project. The Borrower agrees that the Governmental Lender, the Funding Lender, the Servicer and the Construction Inspector, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 5.18 Notice of Default. The Borrower will advise in writing, the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer as soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.19 Covenant with the Governmental Lender and the Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

Section 5.20 Obligation of the Borrower to Construct the Project. The Borrower shall proceed with reasonable dispatch to construct, develop and equip the Project. If the proceeds of the Borrower Loan, together with the Other Borrower Moneys, available to be disbursed to the Borrower are not sufficient to pay the costs of such construction, development and equipping of the Project, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender, the Fiscal Agent and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.21 Maintenance of Insurance.

(a) Prior to the Conversion Date, the Borrower will obtain and maintain insurance with respect to the Project and the operations of the Borrower as required from time to time by the Governmental Lender and the Funding Lender. The initial insurance requirements are set forth on Exhibit B hereto. All renewal policies, with premiums paid, shall be delivered to the Governmental Lender and the Funding Lender at least thirty (30) days before expiration of the existing policies. If any such insurance shall expire or be canceled, or become void or voidable by reason of the breach of any

condition of coverage, or if the Governmental Lender and the Funding Lender determines that any coverage is unsatisfactory by reason of the failure or impairment of the capital of any insurance carrier, or if any insurance is unsatisfactory to the Governmental Lender and the Funding Lender, in its sole judgment, the Borrower shall promptly place new insurance satisfactory to the Governmental Lender and the Funding Lender.

(b) The Borrower will provide the Governmental Lender and the Funding Lender with certificates evidencing such insurance upon the request of the Governmental Lender and the Funding Lender.

(c) If the Borrower fails to provide, maintain, keep in force or deliver to the Governmental Lender and the Funding Lender the policies of insurance and certificates required by this Borrower Loan Agreement, the Governmental Lender and the Funding Lender may (but shall have no obligation to) procure such insurance, and the Borrower will pay all premiums thereon promptly on demand by the Governmental Lender and the Funding Lender, and until such payment is made by the Borrower, the amount of all such premiums shall bear interest at the Default Rate.

Subsequent to the Conversion Date, the obligation of Borrower to provide insurance is governed by the Supplemental Loan Agreement.

Section 5.22 Information; Statements and Reports. Prior to the Conversion Date, the Borrower shall furnish or cause to be furnished to the Governmental Lender and the Funding Lender:

(a) Event of Default. As soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized Borrower Representative describing the details of such Event of Default or Potential Default and any curative action the Borrower proposes to take;

(b) Financial Reporting Requirements. The Borrower covenants and agrees to comply with the provisions set forth in Exhibit L of the Construction Disbursement Agreement as if fully set forth herein.

(c) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to the Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of the Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(d) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to the Borrower or the General Partner naming the Governmental Lender or the Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of the Borrower to perform its obligations under the Funding Loan Documents;

(e) Certification of Non-Foreign Status. Promptly upon request of the Funding Lender from time to time, a certification of non-foreign status, executed on or after the date of such request by the Funding Lender;

(f) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22 hereof submitted by or on behalf of the Borrower, a statement, in form and substance as set forth in Exhibit A attached to this Borrower Loan Agreement, to the effect that the Borrower is in compliance with all covenants, terms and conditions applicable to the Borrower, under or pursuant to the

Funding Loan Documents and under or pursuant to any other Debt owing by the Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of the Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(g) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of the Borrower, the General Partner, the Guarantor or the Project, as the Funding Lender or the Governmental Lender reasonably requests from time to time.

Subsequent to the Conversion Date, the Supplemental Loan Agreement shall govern the delivery of financial information.

Section 5.23 Additional Notices. The Borrower will, promptly after becoming aware thereof, give notice to the Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against the Borrower, the General Partner or the Guarantor, or any Legal Action which is threatened against the Borrower, the General Partner or the Guarantor which, in any case, if adversely determined, could have a materially adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of the Borrower, the General Partner, the Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which the Borrower, the General Partner or the Guarantor is a party or by or to which the Borrower, the General Partner or the Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of the Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of the Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by the Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of the Borrower's or the General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by the Borrower or the General Partner; or (iii) the nature of the trade or business of the Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, the General Partner and the Equity Investor) under the Partnership Agreement.

Section 5.24 Compliance with Other Agreements; Legal Requirements.

(a) The Borrower shall timely perform and comply with, and shall cause the General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and the Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) The Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction of the Improvements, and will furnish the Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. The Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. The Funding Lender shall at all times have the right to audit, at the Borrower's expense, the Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and the Borrower shall supply all such information with respect thereto as the Funding Lender may request and otherwise cooperate with the Funding Lender in any such audit. Without limiting the generality of the foregoing, the Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to the Funding Lender of) all permits, licenses and approvals which are required to be obtained from the Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

Section 5.25 Completion and Maintenance of Project. The Borrower shall cause the construction of the Improvements, to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Disbursement Agreement, free and clear of any liens or claims for liens (but without prejudice to the Borrower's rights of contest under Section 9.16 hereof) ("Completion") on or before the Completion Date. The Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

Section 5.26 Fixtures. The Borrower shall deliver to the Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which the Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.27 Income from Project. The Borrower shall first apply all Gross Income to the Expenses of the Project, including all amounts then required to be paid under the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, the Borrower shall not make or permit any distributions or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of the Funding Lender.

Section 5.28 Leases and Occupancy Agreements.

(a) Lease Approval.

(i) The Borrower has submitted to the Funding Lender, and the Funding Lender has approved, the Borrower's standard form of tenant lease for use in the Project. The Borrower shall not materially modify that approved lease form without the Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. The Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without the Funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease, and is executed in the form attached as an exhibit to the Construction Disbursement Agreement without material modification;

(B) The Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to the Construction Disbursement Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, the Funding Lender may make written demand on the Borrower to submit all future leases for the Funding Lender's Written Approval prior to execution. The Borrower shall comply with any such demand by the Funding Lender.

(iii) No Written Approval of any lease by the Funding Lender shall be for any purpose other than to protect the Funding Lender's security for the Borrower Loan and to preserve the Funding Lender's rights under the Funding Loan Documents. No Written Approval by the Funding Lender shall result in a waiver of any default of the Borrower. In no event shall any Written Approval by the Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) Landlord's Obligations. The Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) Leasing and Marketing Agreements. Except as may be contemplated in the Management Agreement with the Manager, the Borrower shall not without the Written Approval of the Funding Lender enter into any leasing or marketing agreement and the Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 5.29 Project Agreements and Licenses. To the extent not heretofore delivered to the Funding Lender, the Borrower will furnish to the Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to the Funding Lender and consents in writing to such assignments where required by the Funding Lender, all in form and substance acceptable to the Funding Lender. Neither the Borrower nor the General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to the Funding Lender and/or the Governmental Lender.

Section 5.30 Payment of Debt Payments. In addition to its obligations under the Borrower Note, the Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any

Debt of the Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform the Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to the Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.31 ERISA. The Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.32 Patriot Act Compliance. The Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of the Governmental Authorities having jurisdiction over the Borrower and/or the Project, including those relating to money laundering and terrorism. The Funding Lender shall have the right to audit the Borrower's compliance with the Patriot Act and all applicable requirements of the Governmental Authorities having jurisdiction over the Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that the Borrower fails to comply with the Patriot Act or any such requirements of the Governmental Authorities, then the Funding Lender may, at its option, cause the Borrower to comply therewith and any and all costs and expenses incurred by the Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

Section 5.33 Funds from Equity Investor. The Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement. All Borrower Required Equity shall be deposited in the Borrower Equity Account of the Project Fund held by the Fiscal Agent under the Funding Loan Agreement for disbursement to the Borrower upon receipt from the Borrower of a Written Requisition in accordance with the terms of the Funding Loan Agreement and the Construction Disbursement Agreement.

Section 5.34 Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) **General.** The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a "substantial user" of any facility financed with the proceeds of the Governmental Lender Note or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) Use of Proceeds. The use of the net proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) Limitation on Net Proceeds. At least ninety five percent (95%) of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended shall be used to pay Qualified Project Costs that are costs of a "qualified residential rental project" (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is "functionally related and subordinate" thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Funding. The proceeds of the Funding Loan will be expended for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent (2%) of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding of the Funding Loan.

(iii) Prohibited Facilities. The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) Limitation on Land. Less than twenty five percent (25%) of the net proceeds of the Funding Loan actually expended will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) Limitation on Existing Facilities. No portion of the net proceeds of the Funding Loan will be used for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed fifteen percent (15%) of the cost of acquiring such building financed with the proceeds of the Funding Loan (with respect to structures other than buildings, this clause shall be applied by substituting one hundred percent (100%) for fifteen percent (15%)). For purposes of the preceding sentence, the term "rehabilitation expenditures" shall have the meaning set forth in Section 147(d)(3) of the Code.

(vi) Accuracy of Information. The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower's information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Funding Loan.

(vii) Limitation of Project Expenditures. The acquisition, construction, rehabilitation, development and equipping of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the sixtieth (60th) day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on June 7, 2016, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction, rehabilitation, development or equipping of the Project was paid or incurred prior to sixty (60) days prior to such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing, reimbursement bond issuance and

similar costs incurred prior to the commencement of construction, rehabilitation or acquisition of the Project.

(viii) Qualified Costs. The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code and that for the greatest number of buildings the proceeds of the Funding Loan shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Funding Loan for the purpose of complying with Section 42(h)(4)(B) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders or payees of the Funding Loan and the Borrower Note for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

(c) Limitation on Maturity. The average maturity of the Governmental Lender Note does not exceed one hundred and twenty percent (120%) of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the net proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) No Arbitrage. The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note relating to the Funding Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the payment date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and the Funding

Lender at all times from and after the Closing Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five (45) days after the fifth (5th) anniversary of the Closing Date and each five (5) years thereafter and not later than forty-five (45) days after the final Computation Date and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and the Funding Lender.

(e) No Federal Guarantee. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Representations. The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) Qualified Residential Rental Project. The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remains outstanding, to the end that the interest on the Governmental Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) Information Reporting Requirements. The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) Funding Loan Not a Hedge Bond. The Borrower covenants and agrees that not more than fifty percent (50%) of the proceeds of the Funding Loan will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four (4) years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least eighty five percent (85%) of the spendable proceeds of the Funding Loan will be used to carry out the governmental purposes of the Funding Loan within the three (3) year period beginning on the Closing Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 9.14 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) Public Approval. The Borrower covenants and agrees that the proceeds of the Funding Loan will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan.

(l) 40/60 Test Election. The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender, the Fiscal Agent and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order to maintain the tax-exempt status of the Governmental Lender Note. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the tax-exempt status of the Governmental Lender Note. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Fiscal Agent and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Fiscal Agent or the Funding Lender, or any agent of the Governmental Lender or the Funding Lender.

(n) Compliance with Tax Certificate. In furtherance of the covenants in this section, the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Borrower Loan Agreement and made a part of this Borrower Loan Agreement as if set forth in this Borrower Loan Agreement in full, and the terms of which shall control over any conflicting provisions of this Borrower Loan Agreement.

Section 5.35 Payment of Rebate.

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) Delivery of Documents and Money on Computation Dates. The Borrower will deliver to the Fiscal Agent, with a copy to the Funding Lender, within fifty-five (55) days after each Computation Date:

(A) a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least ninety percent (90%) of the Rebate Amount as of such Installment Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) Correction of Underpayments. If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within one hundred and seventy five (175) days after any discovery or notice and (2) deliver to the Fiscal Agent an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) Records. The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six (6) years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) Costs. The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to

any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) Modification of Requirements. If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion with respect to such action.

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

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

(d) All payments to the United States of America pursuant to this Section 5.35 shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Fiscal Agent by the Borrower or the Rebate Analyst as set forth in this Section 5.35).

(e) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 5.35 and all records of transactions in the Rebate Fund until six (6) years after the retirement of the Funding Loan.

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

(g) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the tax-exempt status of the Governmental Lender Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender, the Fiscal Agent and the Funding Lender with respect to such withdrawal.

(h) Notwithstanding the foregoing, the computations and payments of the Rebate Amount referred to in this Section 5.35 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender.

Section 5.36 Covenants under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply

to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

Section 5.37 Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

ARTICLE VI

NEGATIVE COVENANTS

The Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of the Borrower under any of the other Funding Loan Documents remains outstanding or unperformed. The Borrower covenants and agrees that it will not, directly or indirectly:

Section 6.1 Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2 Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 6.3 Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multifamily property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction of the Project).

Section 6.4 Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 6.5 Assets. Purchase or own any real property or personal property incidental thereto other than the Project.

Section 6.6 Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument and the Regulatory Agreement, nor transfer any material License required for the operation of the Project.

Section 6.7 Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Funding Loan Documents, and (iv) trade payables incurred in the ordinary course of business.

Section 6.8 Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Funding Loan Document in contravention of any Funding Loan Document.

Section 6.9 Principal Place of Business. Change its principal place of business without providing thirty (30) days' prior Written Notice of the change to the Funding Lender and the Servicer.

Section 6.10 Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect, any of its rights or remedies under the Partnership Agreement; provided, however, the consent of the Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of the Borrower as defined in and permitted by the Security Instrument.

Section 6.11 ERISA. Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12 No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 6.13 Loans and Investments; Distributions; Related Party Payments.

(a) Without the prior Written Consent of the Funding Lender in each instance, the Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in the Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in the Borrower, or make any distribution, in cash or in kind, in respect of interests in the Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in the Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

(b) Disbursements for fees and expenses of any Affiliate of the Borrower or Developer Fee (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the construction of the Improvements, as determined by the Construction Inspector, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or by the Funding Lender, no Disbursements for the Developer Fee or any deferred

developer fee as determined by the Funding Lender on the Closing Date shall be made prior to the Conversion Date.

Section 6.14 Amendment of the Related Documents or CC&R's. Without the prior Written Consent of the Funding Lender in each instance, except as provided herein or in the Construction Disbursement Agreement, the Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in this Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10 hereof), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15 Personal Property. The Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than the Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in the Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16 Fiscal Year. Without the Funding Lender's Written Consent, which shall not be unreasonably withheld, neither the Borrower nor the General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

Section 6.17 Publicity. Neither the Borrower nor the General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify the Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior Written Approval of the Funding Lender in each instance (provided that nothing herein shall prevent the Borrower or the General Partner from identifying the Funding Lender or its Affiliates as the source of such financing to the extent that the Borrower or the General Partner are required to do so by disclosure requirements applicable to publicly held companies). The Borrower and the General Partner agree that no sign shall be posted on the Project in connection with the construction of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or the Funding Lender consents in writing to not being identified on any such sign.

Section 6.18 Subordinate Loan Documents. Without the Funding Lender's prior Written Consent, the Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

Section 6.19 Ground Lease. Without the Funding Lender's prior Written Consent, the Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Ground Lease.

Section 6.20 Controlled Substances. Borrower shall not, and shall not suffer or permit a tenant under any lease to violate any Legal Requirements affecting the Property, including the Controlled Substances Act, or which could otherwise result in the occurrence of an Event of Default, including the commencement of any proceedings under the Civil Asset Forfeiture Reform Act. Upon learning of any conduct contrary to this Section, Borrower shall immediately take all actions reasonably expected under the circumstances to terminate any such use of the Property, including: (a) to give timely notice to an

appropriate law enforcement agency of information that led Borrower to know such conduct had occurred, and (b) in a timely fashion to revoke or make a good faith attempt to revoke permission for those engaging in such conduct to use the Property or to take reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the Property.

Section 6.21 Sanctions. Borrower shall not, directly or indirectly, use the proceeds of the Borrower Loan, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund the activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction being financed by the Borrower Loan, whether as underwriter, advisor, investor or otherwise) of Sanctions.

Section 6.22 [Effect of Supplemental Loan Agreement Following Conversion. The parties hereto acknowledge that upon satisfaction of the "Conversion Conditions" set forth in the Loan Purchase Agreement and CCRC's purchase of the Funding Loan on the Conversion Date, CCRC shall become the Funding Lender and the Servicer. Notwithstanding anything to the contrary contained herein, upon the Conversion Date, the Supplemental Loan Agreement is hereby deemed to supplement and modify the terms of this Agreement. In the event of any conflict between terms of this Loan Agreement and the Supplemental Loan Agreement, the terms of the Supplemental Loan Agreement shall govern and control, except with respect to Unassigned Rights or any terms which have the effect of modifying the terms of the Funding Loan and the Governmental Lender Note, which shall only be permitted upon receipt of a Tax Counsel No Adverse Effect Opinion.]

ARTICLE VII

DEFAULTS

Section 7.1 Events of Default. Each of the following events shall constitute an "Event of Default" under this Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Funding Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 7.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument or any of the other Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined by the Borrower Note; the Security Instrument or any other Funding Loan Document, occurs (or to the extent an "Event of Default" is not defined in any other Funding Loan Document, any default or breach by the Borrower or the Guarantor of its obligations, covenants, representations or warranties under such Funding Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a non-profit Borrower Controlling Entity, may be replaced within sixty (60) days of such event with another non-profit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) any portion of the Borrower Required Equity to be made by the Equity Investor is not received in accordance with the Partnership Agreement after the expiration of all applicable notice and cure periods;

(h) the failure by the Borrower or any ERISA Affiliate of the Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of the Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of the Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);

(i) a Bankruptcy Event shall occur with respect to the Borrower, the General Partner or the Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Funding Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(j) all or any part of the property of the Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to the Completion Date, within ten (10) days of the date thereof or (ii) after the Completion Date, within thirty (30) days of the date thereof;

(k) subject to Section 9.16 hereof, the Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting the Borrower, the General Partner or the Guarantor, or property of the Borrower, the General Partner or the Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by the Borrower, the General Partner or the Guarantor, as applicable, provided that any such material litigation or proceeding against a Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against the Borrower, the General Partner or the Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to the Completion Date, within ten (10) days after entry thereof or (ii) after the Completion Date, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine or penalty against a Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against the Borrower, the General Partner or the Guarantor, or against any of their respective assets, that is not paid, superseded or stayed (i) prior to the Completion Date, within ten (10) days after entry thereof or (ii) after the Completion Date, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against the Borrower, the General Partner or the Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of the Borrower, the General Partner or the Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Funding Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed (i) prior to the Completion Date, for a period of ten (10) days or (ii) after the Completion Date, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against a Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty

terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(o) the inability of the Borrower to satisfy any condition for the receipt of a Disbursement hereunder (other than an Event of Default specifically addressed in this Section 7.1) and failure to resolve the situation to the satisfaction of the Funding Lender for a period in excess of thirty (30) days after Written Notice from the Funding Lender unless (i) such inability shall have been caused by conditions beyond the control of the Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping; (ii) the Borrower shall have made adequate provision, acceptable to the Funding Lender, for the protection of materials stored on-site or off-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (iii) the Borrower shall furnish to the Funding Lender satisfactory evidence that such cessation of construction will not adversely affect or interfere with the rights of the Borrower under labor and materials contracts or subcontracts relating to the construction or operation of the Improvements; and (iv) the Borrower shall furnish to the Funding Lender satisfactory evidence that the completion of the construction of the Improvements can be accomplished by the Completion Date;

(p) the construction of the Improvements is abandoned or halted prior to the Completion Date for any period of thirty (30) consecutive days, except in the case of Force Majeure as permitted pursuant to Section 6.14 of the Construction Disbursement Agreement;

(q) the Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Property or the Project orders or requires that construction of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(r) failure by the Borrower to Substantially Complete the construction of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date;

(s) failure by the Borrower to complete the construction of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date;

(t) failure by the Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date;

(u) failure by any Subordinate Lender to disburse the proceeds of its Subordinate Loan in such amounts and at such times as set forth in the Cost Breakdown and in the Subordinate Loan Documents;

(v) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods; or

(w) the Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Government Authorities or third parties necessary for the completion of the construction of the Improvements, and the operation of, and access to, the Project, within ten (10) days after the Closing Date; or

(x) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 7.1), as and when required, which continues for a period of thirty (30) days after Written Notice of such failure by the Funding Lender or the Servicer on its behalf to the Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Funding Loan Document; or

(y) a judicial or nonjudicial forfeiture or seizure proceeding is commenced by a Governmental Authority and remains pending with respect to the Property or any part thereof, on the grounds that the Property or any part thereof had been used to commit or facilitate the commission of a criminal offense by any Person, including any tenant, pursuant to any Law, including under the Controlled Substances Act or the Civil Asset Forfeiture Reform Act, regardless of whether or not the Property or the Security Instrument shall become subject to forfeiture or seizure in connection therewith.

Section 7.2 Remedies.

Section 7.2.1 Acceleration. Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 7.1 hereof) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Funding Loan Documents or at law or in equity, the Funding Lender may, take such action (whether directly or by directing the actions of the Fiscal Agent), without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights and/or the rights of the Governmental Lender against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by the Funding Lender, in the Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 7.1 hereof, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Funding Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

Section 7.2.2 Remedies Cumulative. Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender or the Fiscal Agent against the Borrower under the Funding Loan Documents or at law or in equity may be exercised by the Funding Lender or the Fiscal Agent, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Funding Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the

other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Funding Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until they have exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations has been paid in full. To the extent permitted by applicable law, nothing contained in any Funding Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender, the Fiscal Agent and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 7.2.3 Delay. No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender or the Fiscal Agent shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender and the Fiscal Agent reserve the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the rents, the funds or any other Collateral.

Section 7.2.4 Set Off; Waiver of Set Off. Upon the occurrence of an Event of Default, the Funding Lender may, at any time and from time to time, without notice to the Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of the Borrower to the Funding Lender, the Governmental Lender or the Fiscal Agent arising under or connected with this Borrower Loan Agreement and the other Funding Loan Documents, irrespective of whether or not the Funding Lender or the Fiscal Agent shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and the Borrower hereby grants to the Governmental Lender, the Funding Lender and the Fiscal Agent, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

Section 7.2.5 Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement, and any other Funding Loan Document to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

Section 7.2.6 Accounts Receivable. Upon the occurrence of an Event of Default, the Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing the Borrower's accounts, accounts receivable and

other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of the Funding Lender.

Section 7.2.7 Defaults under Other Documents. The Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

Section 7.2.8 Abatement of Disbursements. Notwithstanding any provision to the contrary herein or any of the other Funding Loan Documents, the Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to the Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of the Borrower to fail to be true and correct in all material respects, unless and until the Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

Section 7.2.9 Completion of Improvements. Upon the occurrence of any Event of Default, the Funding Lender shall have the right to cause an independent contractor selected by the Funding Lender to enter into possession of the Project and to perform any and all work and labor necessary for the completion of the Project substantially in accordance with the Plans and Specifications, if any, and to perform the Borrower's obligations under this Borrower Loan Agreement. All sums expended by the Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by the Borrower and shall be secured by the Security Documents.

Section 7.2.10 Right to Directly Enforce. Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender or the Fiscal Agent, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section 7.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

Section 7.2.11 Power of Attorney. Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, the Borrower hereby constitutes and appoints the Funding Lender, or an independent contractor selected by the Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of the Borrower's obligations under this Borrower Loan Agreement in the name of the Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Funding Loan Documents):

(a) to use any of the funds of the Borrower or the General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by the Funding Lender for the Borrower (including all funds in all deposit accounts in which the Borrower has granted to the Funding Lender a security interest), for the purpose of effecting completion of the construction of the Improvements, in the manner called for by the Plans and Specifications;

(b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Project in substantially the manner contemplated by the Plans and Specifications;

(c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

(d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;

(e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project, the Improvements or the Project, or may be necessary or desirable for the completion of the construction of the Improvements, or clearance of objections to or encumbrances on title;

(f) to execute all applications and certificates in the name of the Borrower, which may be required by any other construction contract;

(g) to prosecute and defend all actions or proceedings in connection with the Project and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the construction of the Improvements, which the Borrower might do on its own behalf;

(h) to let new or additional contracts to the extent not prohibited by their existing contracts;

(i) to employ watchmen and erect security fences to protect the Project from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Funding Loan Documents remain outstanding.

ARTICLE VIII

SPECIAL PROVISIONS

Section 8.1 Sale of Note and Secondary Market Transaction.

Section 8.1.1 Cooperation. Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note and the Funding Loan or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note and the Funding Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that the Borrower shall not incur any third party or other out-of-pocket costs and

expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify the Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 8.1.2 Use of Information. The Borrower understands that certain Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 8.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

Section 8.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions

(and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document.

Section 8.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer and the underwriter group for any securities (the "Underwriter Group") for any Liabilities to which the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 8.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 8.1.3 and 8.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 8.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 8.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 8.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 8.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with

respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Funding Loan Document (a "notice") shall be deemed to be given and made when delivered by hand, by recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

If to the Borrower: 455 Fell, L.P.
1360 Mission Street, Suite 300
San Francisco, CA 94103
Attention: Tim Dunn
Telephone: (415) 355-7113
Facsimile: (415) 355-7101

and with a copy to: Gubb & Barshay
505 14th Street, Suite 1050
Oakland, CA 94612
Attention: Evan Gross
Telephone: (415) 781-6600 x6
Facsimile: (415) 781-6967

[and a copy to:] Bank of America Merrill Lynch
555 California Street, 6th Floor
San Francisco, CA 94104
Attention: Ari Beliak
Telephone: (415) 913-3215
Facsimile: (415) 519-4275

If to the Governmental Lender: City and County of San Francisco
Mayor's Office of Housing and Community
Development (MOHCD)
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attention: Adam Cray
Telephone: (415) 701-5512
Facsimile: (415) 554-4755

If to the Fiscal Agent: [FISCAL AGENT NAME]
[ADDRESS]
Attention: [_____
Telephone: [_____
Facsimile: [() -]

If to the Funding Lender: Bank of America, N.A.
[ADDRESS]
Attention: [_____
Telephone: [_____
Facsimile: [() -]

If to the Servicer [SERVICER NAME]
[ADDRESS]
Attention: [_____
Telephone: [_____
Facsimile: [() -]

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing Written Notice of such change of address to the other parties by Written Notice as provided herein.

Section 9.2 Brokers and Financial Advisors. The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 9.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 9.3 Survival. This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer.

Section 9.4 Preferences. The Governmental Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 9.5 Waiver of Notice. The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender, the Fiscal Agent or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Funding Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, with respect to any matter for which no Funding Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer to the Borrower.

Section 9.6 Offsets, Counterclaims and Defenses. The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of the Funding Lender's interest in and to the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

Section 9.7 Publicity. The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general public, which refers to the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

Section 9.8 Construction of Documents. The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Funding Loan Documents and that the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 9.9 No Third Party Beneficiaries. The Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer and the Borrower and, with respect to Sections 8.1.3 and 8.1.4 hereof, the Underwriter Group, and nothing contained in any Funding Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 9.10 Assignment. The Borrower Loan, the Security Documents, the Funding Loan Documents and all the Funding Lender's and the Fiscal Agent's rights, title, obligations and interests therein may be assigned by the Funding Lender or the Fiscal Agent as appropriate, at any time in the Funding Lender's sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise. Upon such assignment, all references to the Funding Lender or the Fiscal Agent, as appropriate, in this Borrower Loan Agreement and in any other Funding Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender or the Fiscal Agent, as appropriate. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of the Funding Lender or the Fiscal Agent, as appropriate, in connection with the interest so assigned shall be as fully enforceable by such

assignee as they were by the Funding Lender or the Fiscal Agent, as appropriate, before such assignment. In connection with any proposed assignment, the Funding Lender or the Fiscal Agent, as appropriate, may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to the Funding Lender or the Fiscal Agent, as appropriate, with reference to the Borrower, the General Partner, the Guarantor or any Affiliate, or the Project, including information that the Borrower is required to deliver to the Funding Lender or the Fiscal Agent pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the other Funding Loan Documents, or the Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

Section 9.11 [Reserved].

Section 9.12 The Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer Not in Control; No Partnership. None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer or to create an equity in the Project in the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer. Neither the Governmental Lender, the Fiscal Agent, the Funding Lender nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Funding Loan Documents; and notwithstanding any other provision of the Funding Loan Documents: (1) the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Fiscal Agent, the Funding Lender, the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Fiscal Agent, the Funding Lender, the Servicer and the Borrower, or to create an equity in the Project in the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 9.13 Release. The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 9.14 Term of the Borrower Loan Agreement. This Borrower Loan Agreement shall be in full force and effect until all Borrower Payment Obligations hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this Borrower Loan Agreement shall be

terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11 (The Governmental Lender's, the Funding Lender's and the Fiscal Agent's Fees), 5.14 (Expenses), 5.15 (Indemnity), 8.1.3, 8.1.4, 8.1.5, 8.1.6 and 9.15 (Reimbursement of Expenses) hereof, as well as under Section 5.7 of the Construction Disbursement Agreement, shall survive the termination of this Borrower Loan Agreement.

Section 9.15 Reimbursement of Expenses. If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 9.15 shall be subordinate to its obligations to make payments under the Borrower Note.

Section 9.16 Permitted Contests. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, the Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of the Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to the Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to the Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless the Borrower shall have given prior Written Notice to the Governmental Lender and the Funding Lender of the Borrower's intent to so contest or object thereto, and unless (i) the Borrower has, in the Governmental Lender's and the Funding Lender's judgment, a reasonable basis for such contest, (ii) the Borrower pays when due any portion of the claim, demand, levy or assessment to which the Borrower does not object, (iii) the Borrower demonstrates to the Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) the Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to the Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to the Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) the Borrower at all times prosecutes the contest with due diligence, and (vi) the Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by the Borrower, the amount so determined to be due and owing by the Borrower. In the event that the Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by the Borrower; any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and the Funding Lender may draw or realize upon any bond or other security delivered to the Funding Lender in connection with the contest by the Borrower, in order to make such payment.

Section 9.17 The Funding Lender's Approval of Instruments and Parties. All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to Written Approval by the Funding Lender. The Funding Lender's Written Approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of the Funding Lender. No such Written Approval shall result in a waiver of any default of the Borrower. In no event shall the Funding Lender's Written Approval be a representation of any kind with regard to the matter being approved.

Section 9.18 The Funding Lender's Determination of Facts. The Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 9.19 Calendar Months. With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first (1st) day of the next succeeding Calendar Month.

Section 9.20 Determinations by the Governmental Lender and/or the Funding Lender. Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the Written Consent or Written Approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such Written Consent or Written Approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

Section 9.21 Governing Law. This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 9.22 Consent to Jurisdiction and Venue. The Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. The Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against the Borrower or any of the Borrower's assets in any court of any other jurisdiction.

Section 9.23 Successors and Assigns. This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

Section 9.24 Severability. The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

Section 9.25 Entire Agreement; Amendment and Waiver. This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any

provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender's or the Funding Lender's obligation to make further Disbursements nor, in the event the Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

Section 9.26 Counterparts. This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 9.27 Captions. The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 9.28 Servicer. The Borrower hereby acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other Funding Loan Documents, and to otherwise service the Borrower Loan and (b) unless the Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 9.29 Beneficiary Parties as Third Party Beneficiary. Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 9.30 [RESERVED]

Section 9.31 Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

Section 9.32 Modifications. Modifications (if any) to this Borrower Loan Agreement ("Modifications") are set forth on Exhibit [] attached to this Borrower Loan Agreement. In the event of a Transfer under the terms of the Security Instrument, some or all of the Modifications to this Borrower Loan Agreement may be modified or rendered void by the Governmental Lender or the Funding Lender at its option by notice to the Borrower or such transferee.

Section 9.33 Reference Date. This Borrower Loan Agreement is dated for reference purposes only as of the first (1st) day of October, 2017, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

Section 9.34 Electronic Communications.

(a) **Electronic Transmission of Data.** Governmental Lender, Fiscal Agent and Borrower agree that certain data related to the Borrower Loan and/or the Funding Loan (including confidential information, documents, applications and reports) may be transmitted electronically, including transmission over the Internet. This data may be transmitted to, received from or circulated among agents and representatives of Borrower, Governmental Lender, Funding Lender and/or Fiscal Agent and its or

their respective affiliates and other Persons involved with the subject matter of this Agreement and/or any of the other Funding Loan Documents.

(b) **Borrower Controlled Websites.** Borrower may elect to deliver documentation required pursuant to this Agreement and/or any of the other Funding Loan Documents electronically, and if so delivered, such documentation shall be deemed to have been delivered on the date (i) on which Borrower posts such documents, or provides a link thereto on Borrower's website on the Internet at the website address listed on Borrower's signature page to this Agreement; or (ii) on which such documents are posted on Borrower's behalf on an Internet or intranet website, if any, to which Governmental Lender, Funding Lender and Fiscal Agent have access (whether a commercial, third-party website or whether sponsored by Governmental Lender, Funding Lender and/or Fiscal Agent); provided that: (i) Borrower shall deliver paper copies of such documents to Governmental Lender, Funding Lender and Fiscal Agent upon its or their request to Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by Governmental Lender, Funding Lender and/or Fiscal Agent, and (ii) Borrower shall notify Governmental Lender, Funding Lender and Fiscal Agent (by facsimile or electronic mail) of the posting of any such documents and provide to Governmental Lender, Funding Lender and Fiscal Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Borrower agrees that in the event that Borrower would like to update or revise a document previously posted to the Borrower controlled website, Borrower shall notify Governmental Lender, Funding Lender and Fiscal Agent (by facsimile or electronic mail) that such document has been revised and an updated version has been posted.

(c) **Assumption of Risks; Indemnification.** Borrower acknowledges and agrees that (i) there are risks associated with the use of electronic transmission and Borrower controlled websites and that Governmental Lender, Funding Lender and/or Fiscal Agent does not control the method of transmittal, the service providers or the operational or technical issues that could occur; (ii) none of Governmental Lender, Funding Lender nor Funding Agent has any obligation or responsibility whatsoever and assumes no duty or obligation for the security, receipt or third party interception of any such electronic transmission of data or Borrower controlled website, or any operational or technical issues that may occur with the electronic transmission of data or the Borrower controlled website; and (iii) Borrower will release, hold harmless and indemnify Governmental Lender, Funding Lender and Fiscal Agent from any claim, damage or loss, including that arising in whole or part from Governmental Lender's, Funding Lender's and Fiscal Agent's strict liability or sole, comparative or contributory negligence, which is related to the electronic transmission of data or the Borrower controlled website.

Section 9.35 City Contracting Provisions. The Borrower covenants and agrees to comply with the provisions set forth in Section 21 of the Regulatory Agreement as if fully set forth herein.

ARTICLE X

LIMITATIONS ON LIABILITY

Section 10.1 Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Funding Loan Documents shall be limited to the extent set forth in the Borrower Note.

Section 10.2 Limitation on Liability of the Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from moneys and assets received by the Fiscal Agent or the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the

taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender's sole source of moneys to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Funding Lender under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment price) of and interest on the Funding Loan as the same shall become due (whether by maturity, mandatory prepayment, acceleration or otherwise), then upon notice from the Funding Lender or the Servicer, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Borrower, the Governmental Lender, the Fiscal Agent or any third party, subject to any right of reimbursement from the Funding Lender, the Governmental Lender, the Fiscal Agent or any such third party, as the case may be, therefor.

Section 10.3 Waiver of Personal Liability. No member, officer, agent or employee of the Governmental Lender or any director, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 10.4 Limitation on Liability of the Funding Lender's Officers, Employees, Etc.

(a) The Borrower assumes all risks of the acts or omissions of the Governmental Lender, the Fiscal Agent and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender, the Fiscal Agent and the Funding Lender at law or under any other agreement. None of the Governmental Lender, the Fiscal Agent and the Funding Lender, nor the other Beneficiary Parties or their respective commissioners, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender, the Fiscal Agent and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender, the Fiscal Agent and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Governmental Lender, the Fiscal Agent and the Funding Lender.

(b) None of the Governmental Lender, the Fiscal Agent, the Funding Lender, the other Beneficiary Parties or any of their respective commissioners, officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender, the

Fiscal Agent and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. The Borrower is not and shall not be an agent of the Governmental Lender, the Fiscal Agent and the Funding Lender for any purpose. None of the Governmental Lender, the Fiscal Agent or the Funding Lender is a joint venture partner with the Borrower in any manner whatsoever. Prior to default by the Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender, the Fiscal Agent and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender, the Fiscal Agent and the Funding Lender. Written Approvals granted by the Governmental Lender, the Fiscal Agent and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any Written Approval or, if not in writing, such approvals shall be solely for the benefit of the Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender, the Fiscal Agent and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's, the Fiscal Agent's or the Funding Lender's commissioners, shareholders (if any), directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 10.5 Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender, the Fiscal Agent and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's, the Fiscal Agent's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender, the Fiscal Agent and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender, the Fiscal Agent and the Funding Lender.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Borrower Loan Agreement, all as of the date first set forth above.

THE BORROWER:

455 Fell, L.P., a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Its: _____

[Signatures continue on the next page]

[The Governmental Lender's Signature Page to the Borrower Loan Agreement]

THE GOVERNMENTAL LENDER:

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Director, Mayor's Office of Housing and
Community Development

[Signatures continue on the next page]

[The Fiscal Agent's Signature Page to the Borrower Loan Agreement]

THE FISCAL AGENT:

[Fiscal Agent]

By: _____
[Authorized Signatory]

[Signatures continue on the next page]

[The Funding Lender's Signature Page to the Borrower Loan Agreement]

Agreed to and Acknowledged by:

THE FUNDING LENDER:

BANK OF AMERICA, N.A.

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

[Date]

[BORROWER ADDRESS]

and

Bank of America N.A.
[ADDRESS]

Re:

Ladies and Gentlemen:

This annual compliance certificate (this "Certificate") is being delivered pursuant to that certain Borrower Loan Agreement dated as of [October 1, 2017], by and among the undersigned ("Borrower"), [FISCAL AGENT] ("Fiscal Agent") and the City and County of San Francisco ("Governmental Lender") (as the same may have been or may hereafter be amended, modified, supplemented, restated and replaced from time to time, the "Borrower Loan Agreement"). All capitalized terms used but not defined in this Certificate shall have the meanings given in the Borrower Loan Agreement.

This Certificate is being given for the period of time ending on _____. Borrower hereby certifies to the Governmental Lender as follows:

1. The debt service coverage ratio for the Calculation Period ending on the date referred to above was _____:1.0, determined as follows:

- (a) Net Operating Income: _____
 - (i) Actual operating revenue: _____
 - (ii) Operating expenses: _____

- (b) Debt service: _____
 - (i) actual principal (if any) and interest payable under the Borrower Loan during such Calculation Period (giving effect to any swap contract in effect):

2. The required debt service coverage ratio for the Calculation Period ending on such date was ____:1.00.

The calculations made and the information contained herein are complete and correct and fairly present the financial position and results of operations of the Borrower in accordance with accounting principles consistently applied, and correctly reflect the books and records of the Borrower.

[Signatures on the following page]

Should you require any further documentation or have any questions, please contact

_____.

THE BORROWER:

455 Fell, L.P., a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Its: _____

EXHIBIT B

SCHEDULE OF INSURANCE REQUIREMENTS--TBD

1. General Requirements

In order to close, the following insurance specifications must be met and approved in writing by the Funding Lender's insurance consultant. Copies of policies together with an original ACORD 28 (Evidence of Property Insurance) and an ACORD 25 (certificate of insurance) or an approved equivalent listing all coverage will be accepted for pre-closing contingent on complete "true and certified" copies of the policies with all endorsements attached being received within ninety (90) days after closing. Each certificate must correctly identify the property by address and the insured by borrowing entity name.

Policy premiums cannot be financed or paid in installments to an insurance carrier, but must be paid in full as evidenced by a paid receipt presented prior to or at pre-closing. All policies and renewals thereof are to be written for not less than one year. An escrow account, as described further in the loan application, will be established to pay the premium at renewal.

All of the liability policies must be written and provide for claims to be paid on an "Occurrence" basis.

Each policy must have a cancellation provision that provides that the carrier will notify Mortgagee (as defined in the Security Instrument), its successors and/or assigns, in writing at least thirty (30) days in advance of any policy reduction or cancellation for any reason except for non-payment of premium (for which not less than ten (10) days written notice shall be provided).

The insurer under each policy shall be a domestic primary insurance company duly qualified as such under the laws of the states in which the Property is located and duly authorized, admitted and licensed in such states to transact the applicable insurance business and to write the insurance provided and must have and maintain a rating of AA or higher by Standard & Poor's or A.M. Best rating of A-IX or higher for any Mortgage Loan (as defined in the Security Instrument) \$20,000,000 or above. For any Mortgage Loan below \$20,000,000, the insurance carrier must have and maintain a rating of "A" or higher by Standard & Poor's and/or an A.M. Best rating of A-VI or higher.

The insurance policies may be part of a blanket policy provided the insured acknowledges that failure to pay any portion of the premium which is not allocable to the Property or any other action not relating to the Property which would otherwise permit the issuer to cancel the coverage, would require the Property to be insured by a separate, single-property policy. The blanket policy must properly identify and fully protect the Property as if a separate policy were issued for 100% of replacement cost (insurable value) at the time of loss, allocate a portion of the premium to the Property, and otherwise meet all applicable insurance requirements of the Funding Lender.

During the life of the loan, should any condition change or occur which affects the levels of risk anticipated; the Borrower will be required to obtain appropriate coverage to mitigate the associated risk.

If any required type of coverage is not available for the Property, Mortgagee shall have no obligation to close the loan.

2. Mortgagee Clause

All policies must include EXACTLY the following standard, non-contributory, mortgagee clause:

Mortgagee must be named as a first Mortgagee with respect to buildings, loss payee with respect to loss of rents/business interruption, and additional insured with respect to general liability.

3. Waiver of Subrogation

Not Required.

4. Required Insurance Coverage

The Borrower is required to maintain the following policies of insurance during the term of the Borrower Loan:

- All Risk or Special Causes of Loss Form Property Insurance. Property insurance must be maintained insuring against loss or damage by fire, lightning, wind and such other perils as are included in a standard “all-risk” or “special causes of loss” form, and against loss or damage by all other risks and hazards covered by a standard property insurance policy including, without limitation, riot and civil commotion, vandalism, malicious mischief, burglary and theft. Such insurance shall be in an amount equal to the then full replacement cost of the Improvements, Equipment and personal property, without deduction for physical depreciation, no co-insurance is permitted, and maximum acceptable deductible is \$25,000. If the property is “non-conforming” with respect to zoning requirements, the Borrower will be required to maintain “demolition” insurance (in an amount equal to 10% of the building value) and “increased cost of construction” insurance (in an amount equal to 25% of the building value). The burden to prove conforming use is the borrowers.
- Terrorism Insurance. For loans in excess of \$20 million and if the insurance required under the subparagraph immediately above excludes terrorism, terrorism insurance must be maintained, unless at the time of determination: (i) it is not available at commercially reasonable rates; (ii) no affiliates of the Borrower have purchased terrorism insurance with respect to another property, (iii) terrorism insurance is not commonly maintained by owners of other similar properties and (iv) it is not required for securitized loans similar to the Borrower Loan and secured by property similar to the Property in the commercial mortgage-backed securities market.
- Flood Insurance. If any portion of the Improvements are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards (i.e. Zone A and V) and in which flood insurance is made available under the National Flood Insurance Program, then flood insurance must be maintained at least equal to the lesser of (A) the full replacement cost, together with business interruption coverage or (B) the maximum limit of coverage available for the Property under the National Flood Insurance Act of

1968, The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994, as each may be amended, or \$250,000 per residential building and \$500,000 per commercial building.

- *Earthquake Insurance.* If a seismic study is required by this program summary and such study reveals a 50 year/10% probable maximum loss of not more than 20% of the replacement cost (as determined by the Funding Lender), earthquake insurance will not be required. If the probable maximum loss study reveals that a 50 year/10% probable maximum loss of greater than 20% of the replacement cost, then earthquake insurance must be maintained in an amount equal to the replacement cost with a maximum deductible of 10% replacement cost.
- *Boiler and Machinery Insurance.* If the Property contains HVAC equipment, or there are boilers or other pressure-fired vessels that are required to be regulated by the state in which the property is located, then broad form boiler and machinery insurance (without exclusion for explosion and including “system breakdown coverage) must be maintained on the Property and Improvements in an amount at least equal to or greater than the repair and full replacement cost of such equipment and insurance against loss of occupancy or use arising from any breakdown of such equipment in such amounts as are generally required by institutional lenders for properties comparable to the Property.
- *Business Interruption/Loss of Rental Income Insurance.* Business interruption and/or loss of rental income insurance must be maintained in an amount sufficient to provide proceeds that will cover the “actual loss” sustained during the restoration. No co-insurance is permitted. The “actual loss” coverage amount may be capped based on projected gross revenues (less non-recurring expenses) for a twelve (12) month period. The policy can provide an “Extended Period of Indemnity” endorsement for at least an additional ninety (90) days for loans of \$20 million or more. The perils covered by this insurance shall be the same as those required to be covered on the real property including flood, terrorism and earthquake, as necessary.
- *Builders Risk Insurance.* The Borrower is required to maintain, at all times during which structural construction repairs or alterations are being made with respect to the improvements (A) owner’s contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in Paragraph 1 hereof written in a so-called builder’s risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to said Paragraph 1 hereof, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions.
- *Commercial General Liability Insurance.* The Borrower must maintain commercial general liability insurance on an “occurrence” form including broad form property damage, contractual damages and personal injuries (including death resulting therefrom) and a liquor liability endorsement if the Borrower sells liquor on the Property. In addition, excess and/or umbrella liability insurance must be maintained against all claims typically covered by an umbrella liability policy including all legal liability imposed upon the Borrower and all court costs and attorneys’ fees connected with the ownership, operation, and maintenance of the Property and Equipment, including products/completed operations, if applicable. The per occurrence limits including umbrella liability insurance, if applicable, must be maintained in the minimum amounts as outlined below:

\$1,000,000 total coverage for 1 to 3 story buildings
\$5,000,000 total coverage for 4 to 10 story buildings
\$10,000,000 total coverage for 11 to 20 story buildings
\$25,000,000 total coverage for buildings with greater than 20 stories

If the Borrower has a multi-location policy or loan, the aggregates referred to above must be maintained on a per location basis.

- Wind Insurance. If the all risk or special cause of loss coverage excludes wind, the Borrower must present evidence of separate wind coverage. Maximum acceptable deductible for this peril is 5% of total insured value.
- Sinkhole and Mine Subsidence Insurance. Sinkhole and mine subsidence insurance must be maintained if, in the opinion of a professional engineer, whose resume shows evidence of his/her experience in this professional area, that there is a foreseeable risk of loss due to this hazard. If necessary, as determined by the engineer, the Borrower shall maintain coverage in the full principal amount of the Borrower Loan.
- Statutory Workers Compensation Insurance. If the Borrower has employees on site, statutory workers compensation insurance as required by law and including employer's liability must be maintained in an amount that is at least customary for employers insuring similar risks.
- Hired and Non-Owned Auto Insurance. If the Borrower has employees on site, hired and non-owned auto insurance must be maintained in an amount equal to \$1,000,000 combined single limit.
- Employee Dishonesty. If the Borrower has employees on site, in an amount not less than three (3) months of gross revenue from the property and with a deductible not greater than Twenty-Five Thousand and no/100 Dollars (\$25,000). This coverage is required only on cooperative corporations.
- Other Insurance Coverage. Such other insurance with respect to the Property or on any replacements or substitutions or additions or increased coverage limits as may from time to time be required by the holder of the Borrower Loan against other insurable hazards or casualties which at the time are commonly insured against in the case of property similarly situated, including, without limitation, sinkhole, mold, mine subsidence, earthquake and environmental insurance, due regard being given the height and typed of buildings, their construction, location, use and occupancy.

EXHIBIT C

FORM OF MONTHLY LEASE UP REPORT

MOVE IN DATABASE

Building #	Apt. #	# of BR's	# of BA's	Set-Aside	Security Deposit	Lease Rent	Certified or Move in Date	Lease Expiration	Total Value of Concessions	Description of Concessions	Concession Given at Move In (Y/N)

MOVE OUT DATABASE

Building #	Apt. #	# of BR's	# of BA's	Set-Aside	Total Security Deposit	Security Deposit to Tenant	Lease Rent	Move Out Date	Certified or Move in Date	Lease (enter an "x")			
										Skip	Evicted	Expired	Other

EXHIBIT D

FORM OF STABILIZATION CERTIFICATE

Attention:

Re: 455 Fell Street Apartments (the "Project")

Ladies and Gentlemen:

The undersigned, being the owner of the Project, hereby certifies to City and County of San Francisco, as the Governmental Lender (the "Governmental Lender") and Bank of America, N.A. (the "Funding Lender") that:

The undersigned hereby represents and warrants that:

1. The Improvements are ___% occupied by tenants meeting the requirements of the Funding Loan Documents in each of three (3) prior consecutive months.
2. The ratio of Net Operating Income in each of the prior three (3) months to maximum principal and interest payable in any month under the Funding Loan Documents on the amount of the Funding Loan outstanding at the time of calculation is ____ to 1.0.
3. Stabilization [has/has not] occurred.
4. Attached hereto is a worksheet showing the calculation of Stabilization.

Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Borrower Loan Agreement dated as of [October 1, 2017] by and among the [FISCAL AGENT], the Governmental Lender, and the undersigned.

Borrower:

455 Fell, L.P., A California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Its: _____

Stabilization Spreadsheet

DRAFT
JULY 21, 2017

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

SQUIRE PATTON BOGGS (US) LLP
555 SOUTH FLOWER STREET, 31ST FLOOR
LOS ANGELES, CALIFORNIA 90071
ATTN: ANDREA TOWNSEND

APN: Lot 024; Block 0831
Property Address: 455 Fell Street, San Francisco, California 94102

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

by and among the

CITY AND COUNTY OF SAN FRANCISCO,

[FISCAL AGENT],
as Fiscal Agent,

and

455 FELL, L.P.,
a California limited partnership, as Borrower

Dated as of October 1, 2017

Relating to:

City and County of San Francisco
Multifamily Housing Revenue Note
(455 Fell Street Apartments),
Series 2017D

TABLE OF CONTENTS

	<u>Page</u>
1. Definitions and Interpretation.....	2
2. Acquisition and Construction of the Project.....	8
3. Qualified Residential Rental Property.....	10
4. Restricted Units	12
5. Additional Requirements of the City.....	16
6. Additional Requirements of State Law.....	18
7. CDLAC Requirements.....	20
8. Indemnification.....	20
9. Consideration.....	21
10. Reliance	22
11. Sale or Transfer of the Project.....	22
12. Term.....	23
13. Covenants to Run With the Land.....	23
14. Burden and Benefit	24
15. Uniformity: Common Plan	24
16. Enforcement.....	24
17. Recording and Filing	25
18. Payment of Fees.....	25
19. Governing Law	25
20. Amendments	25
21. City Contracting Provisions.....	25
22. Notice.....	25
23. Severability	27
24. Multiple Counterparts.....	27
25. Third-Party Beneficiaries.....	27

EXHIBIT A	– Legal Description of the Site	A-1
EXHIBIT B	– Income Certification Form	B-1
EXHIBIT C	– Completion Certificate.....	C-1
EXHIBIT D	– Certificate of Continuing Program Compliance	D-1
EXHIBIT E	– Certificate as to Commencement of Qualified Project Period.....	E-1
EXHIBIT F	– CDLAC Resolution	F-1
EXHIBIT G	– CDLAC Certification of Compliance II	G-1
EXHIBIT H	– City and County of San Francisco Mandatory Contracting Provisions.....	H-1

REGULATORY AGREEMENT AND DECLARATION OF
RESTRICTIVE COVENANTS

This REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Regulatory Agreement") is made and entered into as of October 1, 2017, by and among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, organized and existing under the laws of the State of California (together with any successor to its rights, duties and obligations hereunder, the "City"), [FISCAL AGENT], as fiscal agent, and 455 FELL, L.P., a California limited partnership (the "Borrower"), owner of the land described in Exhibit A attached hereto.

RECITALS

A. WHEREAS, pursuant to the Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (collectively, the "Act"), the City is authorized to issue revenue notes to finance the acquisition, construction and development of multifamily rental housing; and

B. WHEREAS, the Board of Supervisors of the City has authorized the execution and delivery of a multifamily mortgage revenue note under the Act in connection with the acquisition and construction of a multifamily residential rental housing project, with 1,500 square feet of commercial space, located on the site described in Exhibit A hereto and to be known as 455 Fell Street Apartments (the "Project"), which Project shall be subject to the terms and provisions hereof; and

C. WHEREAS, in furtherance of the purposes of the Act and as a part of the City's plan of financing affordable housing, the City is executing and delivering its revenue note designated "City and County of San Francisco Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017D" (the "Note") pursuant to the terms of a Funding Loan Agreement of even date herewith (the "Funding Loan Agreement"), by and among the City, Bank of America, N.A., as lender (the "Funding Lender") and [FISCAL AGENT], as fiscal agent (the "Fiscal Agent"), the proceeds of which Note are to be loaned to the Borrower (the "Loan") pursuant to a Borrower Loan Agreement, of even date herewith (the "Loan Agreement"), between the City, the Fiscal Agent and the Borrower; and

D. WHEREAS, the City hereby certifies that all things necessary to make the Note, when executed and delivered as provided in the Funding Loan Agreement, the valid, binding and limited obligation of the City have been done and performed, and the execution and delivery of the Funding Loan Agreement and the Note, subject to the terms thereof, in all respects have been duly authorized; and

E. WHEREAS, the Code (as hereinafter defined) and the regulations and rulings promulgated with respect thereto and the Act prescribe that the use and operation of the Project be restricted in certain respects and in order to ensure that the Project will be acquired, rehabilitated, equipped, used and operated in accordance with the Code and the Act, the City and the Borrower

have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction and operation of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the City and the Borrower agree as follows:

1. Definitions and Interpretation. Capitalized terms used herein have the meanings assigned to them in this Section 1, unless the context in which they are used clearly requires otherwise:

“Act” - The Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented.

“Adjusted Income” - The adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed pursuant to Section 8 of the Housing Act, or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act.

“Affiliated Party” – A(n) (a) Person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) Person who together with the Borrower are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein), (c) partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, and (d) S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Annual Monitoring Report” has the meaning set forth in Section 5(l).

“Area” - The HUD Metro Fair Rent Market Area (HMFA), or successor area determined by HUD in which the Project is located.

“Authorized Borrower Representative” - Any person who at the time and from time to time may be designated as such, by written certificate furnished to the City and the Fiscal Agent containing the specimen signature of such person and signed on behalf of the Borrower by the general partner(s) of the Borrower, which certificate may designate an alternate or alternates.

“Available Units” - Residential units in the Project (except for not more than one unit set aside for a resident manager) that are actually occupied and residential units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a residential unit that is vacant on the later of (i) the date the Project is acquired or (ii) the date

of execution and delivery of the Note is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“Bond Counsel” - An attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the issuance, sale and delivery of Tax Exempt debt issued by states and their political subdivisions including as the context requires matters pertaining to the Act and the Code, who is selected by the City and duly admitted to the practice of law before the highest court of the State.

“Borrower” – 455 Fell, L.P., a California limited partnership, and its permitted successors and assigns.

“Borrower Loan Agreement” - The Borrower Loan Agreement, of even date herewith, between the City, the Fiscal Agent and the Borrower, pursuant to which the Loan was made.

“CDLAC” - The California Debt Limit Allocation Committee.

“CDLAC Requirements” - The requirements described in Section 7 of this Regulatory Agreement.

“CDLAC Resolution” - The Resolution described in Section 7 of this Regulatory Agreement.

“Certificate of CDLAC Compliance” – The CDLAC Certification of Compliance II with respect to the Project to be filed by the Borrower with the City and the Program Administrator, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit G, or such other form as is provided by CDLAC.

“Certificate of Continuing Program Compliance” - The Certificate with respect to the Project to be filed by the Borrower with the City and the Program Administrator, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit D, or such other form as is provided by the City.

“Certificate of Preference” - A residential Certificate of Preference issued by the City pursuant to the City’s Certificate of Preference Program, as further described in attached Exhibit J.

“City” – the City and County of San Francisco, California.

“City Median Income” – the “Maximum Income by Household Size” derived by the Mayor’s Office of Housing and Community Development and published annually, based on the unadjusted area median income for the Area, as determined annually by HUD in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009a of the Housing and Economic Recovery Act of 2008 or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination, and being adjusted for household size, but unadjusted for high housing cost area.

“Closing Date” - The date of the execution and delivery of the Note, being October __, 2017.

“Code” - The Internal Revenue Code of 1986, as in effect on the date of execution and delivery of the Note or (except as otherwise referenced herein) as it may be amended to apply to Tax Exempt debt issued on the date of execution and delivery of the Note, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Commercial Space” - “The approximately 1,500 square feet of ground floor space of the Project intended to be used for retail space.

“Completion Certificate” - The certificate of completion of the construction of the Project required to be delivered to the City (with a copy to the Lender) by the Borrower pursuant to Section 2(d) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

“Completion Date” - The date of completion of the construction of the Project, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.

“Costs of Issuance” - Issuance costs for purposes of Section 147(g) of the Code incurred with respect to the execution and delivery of the Note, but do not include fees charged by the City with respect thereto.

“CTCAC” - The California Tax Credit Allocation Committee.

“Facilities” - The multifamily buildings, structures and other improvements on the Site to be acquired, constructed, improved, and equipped, and all fixtures and other property owned by the Borrower and located on the Site, or used in connection with, such buildings, structures and other improvements.

“Funding Loan Agreement” - The Funding Loan Agreement, of even date herewith, between the City, the Funding Lender and the Fiscal Agent.

“General Partner” - SFHDC 455 Fell LLC, a California limited liability company, and/or any other Person that the partners of Borrower, with the prior written approval of Lender (to the extent required pursuant to the Loan Documents), have selected to be a general partner of Borrower, and any successor general partner of the Borrower, in each case to the extent permitted under the Loan Documents and hereunder.

“Housing Act” - The United States Housing Act of 1937; as amended, codified as 42 U.S.C. §1437.

“Housing Authority” - The Housing Authority of the City and County of San Francisco and any successors.

“Housing Law” - Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended.

“HUD” - The United States Department of Housing and Urban Development, its successors and assigns.

“Income Certification Form” - A fully completed and executed Income Certification Form substantially in the form attached to this Regulatory Agreement as Exhibit B or such other form as may be provided by the City.

“Inducement Date” – June 7, 2016, the date of adoption of the Inducement Resolution.

“Inducement Resolution” - Resolution No. 219-16, adopted by the City on the Inducement Date, indicating its intention to issue Tax Exempt obligations to finance a portion of the Project.

“Investor Limited Partner” – Bank of America Merrill Lynch, or its affiliate(s), that has been admitted as a limited partner of Borrower in accordance with the Partnership Agreement, together with its successors and assigns.

“Lender” – Bank of America, N.A. and its successor and assigns.

“Loan” - The loan of the proceeds of the Note made to the Borrower pursuant to the Borrower Loan Agreement to provide financing for the acquisition and construction of the Project.

“Loan Documents” – The Funding Loan Agreement and the Borrower Loan Agreement.

“Low Income Tenant” means any Tenant whose Adjusted Income does not exceed sixty percent (60%) of the lower of City Median Income or Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a Tenant’s status as a Low Income Tenant shall initially be made by the Borrower on the basis of the Income Certification Form executed by the Tenant upon such Tenant’s occupancy of a unit in the Project and upon annual recertification thereafter.

“Low Income Unit” means a dwelling unit in the Project required to be rented to, or designated for occupancy by, Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

“Managing General Partner” means Mercy Housing Calwest, a California nonprofit public benefit corporation, and/or any other Person that the partners of Borrower, with the prior written approval of Lender (to the extent required pursuant to the Loan Documents), have selected to be a managing general partner of Borrower, and any successor managing general partner of the Borrower, in each case to the extent permitted under the Loan Documents and hereunder.

“Median Income for the Area” means the median gross income for the Area, as determined in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009a of the Housing and Economic Recovery Act of 2008 or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act, including adjustments for household size.

“Mortgage” - The [Construction and Permanent Leasehold Deed of Trust with Assignment of Leases and Rents, Security Agreement and Fixture Filing], dated for reference purposes as of the date hereof, executed by the Borrower and granting a first lien on the Project for the benefit of the City and assigned to the Fiscal Agent, including any amendments and supplements thereto as permitted by the Funding Loan Agreement.

“Note” - City and County of San Francisco Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017D, executed and delivered pursuant to the Funding Loan Agreement.

“Partnership Agreement” means the [First Amended and Restated] Agreement of Limited Partnership of 455 Fell, L.P., by and among the General Partner, the Managing General Partner and the Investor Limited Partner.

“Program Administrator” - A governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on multifamily housing projects financed with Tax Exempt debt, which shall be the City initially and, at the City’s election, any other person or entity appointed by the City who shall enter into an administration agreement in a form acceptable to the City.

“Project” - The Facilities and the Site.

“Project Costs” - To the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the construction of the residential component of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site preparation, the planning of housing and related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the construction of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractor’s and Borrower’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest accrued during construction and prior to the Completion Date.

“Qualified Project Costs” - The Project Costs incurred after the date which is sixty days prior to the Inducement Date and that are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts, within the meaning of Treasury Regulations Section 1.103-8(a)(1); provided, however, that only such portion of the interest accrued during construction of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs, and provided further that such interest shall cease to be a Qualified Project Cost on the Completion Date, and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified

Project Costs” shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof). Qualified Project Costs do not include Costs of Issuance or costs of constructing the Commercial Space.

“Qualified Project Period” - The period beginning on the later of the Closing Date or the first day on which at least ten percent (10%) of the units in the Project are first occupied, and ending on the later of the following:

- (a) the date that is thirty (30) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;
- (b) the first date on which no Tax Exempt private activity bonds with respect to the Project are Outstanding;
- (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates;
- (d) the date that is fifty-five (55) years after the Closing Date; or
- (e) such later date as may be provided in Section 5 or Section 7 hereof.

“Qualified Tenant” – A Low Income Tenant or Very Low Income Tenant.

“Regulations” - The income tax regulations promulgated by the United States Department of the Treasury pursuant to the Code from time to time.

“Regulatory Agreement” - This Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

“Restricted Unit” - A Low Income Unit or a Very Low Income Unit.

“Section 8” - Section 1437f of the Housing Act, unless explicitly referring to a section of this Regulatory Agreement (e.g., “Section 8 hereof”).

“Servicer” shall have the meaning assigned to such term in the Funding Loan Agreement.

“Site” - The parcel or parcels of real property described in Exhibit A, which is attached hereto, and all rights and appurtenances thereto, and in which the Borrower has a leasehold interest.

“SSI” - Supplemental Security Income administered pursuant to P.L. 74-271, approved August 14, 1935, 49 Stat. 620, as now in effect and as it may from time to time hereafter be amended or supplemented.

“State” - The State of California.

“TANF” means the Temporary Assistance for Needy Families program administered pursuant to 42 U.S.C. §§ 601-687.

“Tax Certificate” means the Tax Certificate, dated the Closing Date, as amended or supplemented from time to time.

“Tax Exempt” means, with respect to the status of interest on the Note, the exclusion of interest thereon from gross income of the Lender for federal income tax purposes pursuant to Section 103(a) of the Code (other than interest on any portion of the Note owned by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code).

“Tenant” means, at any time of determination thereof, all persons who together occupy a single residential unit in the Project, and upon the occupancy of a unit by any individual in addition to the previous Tenant of such unit, such unit shall be deemed to be occupied by a new Tenant.

“Very Low Income Tenant” means any Tenant whose Adjusted Income does not exceed fifty percent (50%) of the lower of City Median Income or Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Very Low Income Tenants. The determination of a Tenant’s status as a Very Low Income Tenant shall initially be made by the Borrower on the basis of the Income Certification Form executed by the Tenant upon such Tenant’s occupancy of a Restricted Unit in the Project and upon annual recertification thereafter.

“Very Low Income Unit” means a dwelling unit in the Project required to be rented to, or designated for occupancy by, Very Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender used in this Regulatory Agreement shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

2. Acquisition and Construction of the Project. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Borrower has incurred, or will incur within six (6) months after the Closing Date, a substantial binding obligation to commence the construction of the Project, pursuant to which the Borrower is or will be obligated to expend at least the lesser of (i) two and a half percent (2½%) of the aggregate principal amount of the Note or (ii) \$100,000.

(b) The Borrower's reasonable expectations respecting the total cost of construction of the Project and the disbursement of Bond proceeds are accurately set forth in the Tax Certificate, which has been delivered to the City on the Closing Date.

(c) The Borrower will proceed with due diligence to complete the acquisition and construction of the Project and expects to expend the maximum authorized amount of the Loan for Project Costs within three (3) years of the Closing Date.

(d) On the Completion Date the Borrower will submit to the City and the Lender a duly executed and completed Completion Certificate.

(e) Within thirty (30) days of the date on which fifty percent (50%) of the dwelling units in the Project are first occupied, the Borrower will submit to the City and the Lender a duly executed and completed Certificate as to Commencement of Qualified Project Period, in the form of Exhibit E hereto.

(f) Money on deposit in any fund or account in connection with the Note, whether or not such money was derived from other sources, shall not be used by or under the direction of the Borrower in a manner which would cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent the Note from being an "arbitrage bond" under the Code.

(g) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take any action if such action or omission would in any way cause the proceeds from the sale of the Note to be applied in a manner contrary to the requirements of the Funding Loan Agreement, the Borrower Loan Agreement or this Regulatory Agreement.

(h) On or concurrently with the final draw by the Borrower of amounts representing proceeds of the Note, the expenditure of such draw, when added to all previous disbursements representing proceeds of the Note, will result in not less than ninety-seven percent (97%) of all disbursements of Note proceeds having been used to pay or reimburse the Borrower for Qualified Project Costs and less than twenty-five (25%) percent of all disbursements having been used to pay for the acquisition of land or any interest therein.

(i) The statements made in the various certificates delivered by the Borrower to the City on the Closing Date are true and correct.

(j) All of the amounts received by the Borrower from the proceeds of the Note and earnings from the investment of such proceeds will be used to pay Project Costs; and no more than two percent (2%) of the proceeds of the Note shall be used to pay Costs of Issuance of the Note, within the meaning of Section 147(g) of the Code.

(k) The Borrower will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax Exempt status of interest on the Note (other than with respect to interest on any portion thereof for a period during which such portion is held by a “substantial user” of any facility financed with the proceeds of the Note or a “related person,” as such terms are used in Section 147(a) of the Code), and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(l) The Borrower will take such action or actions as may be necessary, in the written opinion of Bond Counsel to the City, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the Tax Exempt status of interest on the Note (other than with respect to interest on any portion thereof for a period during which such portion is held by a “substantial user” of any facility financed with the proceeds of the Note or a “related person,” as such terms are used in Section 147(a) of the Code).

3. Qualified Residential Rental Property. The Borrower hereby acknowledges and agrees that the Project will be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code). The City hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code and the Borrower hereby elects and covenants to comply with Section 142(d)(1)(B) of the Code. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Project is being acquired and constructed for the purpose of providing multifamily residential rental property, and the Borrower shall own, manage and operate the Project as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with applicable provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations, and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the residential dwelling units in the Project will be similarly constructed units, and, to the extent required by the Code and the Regulations, each residential dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range (which may be a countertop cooking range), refrigerator and sink.

(c) None of the residential dwelling units in the Project will at any time be used on a transient basis (e.g., subject to leases that are less than thirty (30) days duration) (including use as a corporate suite), or be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(d) No part of the Project will at any time be owned as a condominium or by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. Other than obtaining a final subdivision map on the Project and a Final Subdivision Public Report from the California Bureau of Real Estate, the Borrower shall not take any steps in connection with a conversion of the Project to a condominium ownership except with the prior written opinion of Bond Counsel that the interest on the Note will not become taxable thereby under Section 103 of the Code.

(e) All of the residential dwelling units in the Project will be available for rental on a continuous basis to members of the general public and the Borrower will not give preference to any particular class or group in renting the residential dwelling units in the Project, except to the extent required by (i) this Regulatory Agreement, (ii) any regulatory or restrictive use agreement to which the Project is subject pursuant to Section 42 of the Code, (iii) any additional tenant income and rent restrictions imposed by any other federal, State or local governmental agencies, and (iv) any other legal or contractual requirement not excepted by clauses (i) through (iv) of this paragraph, upon receipt by the Borrower, the Fiscal Agent and the City of an opinion of Bond Counsel to the effect that compliance with such other requirement will not adversely affect the Tax Exempt status of interest on the Note.

(f) The Site consists of a parcel or parcels that are contiguous and all of the Facilities will comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No residential dwelling unit in the Project shall be occupied by the Borrower. Notwithstanding the foregoing, if the Project contains five (5) or more residential dwelling units, this subsection shall not be construed to prohibit occupancy of residential dwelling units by one or more resident managers or maintenance personnel any of whom may be the Borrower; provided that the number of such managers or maintenance personnel is not unreasonable given industry standards in the area for the number of residential dwelling units in the Project.

(h) The Borrower shall not discriminate on the basis of race, creed, religion, color, sex, source of income (*e.g.*, TANF, Section 8 or SSI), physical disability (including HIV/AIDS), age, national origin, ancestry, marital or domestic partner status, sexual preference or gender identity in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the construction, operation and management of the Project, except to the extent required hereby.

(i) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by assignment of the leasehold interest in the Project in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the City from enforcing the requirements of the Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Note or, if permitted under the provisions of the Mortgage and the Funding Loan Agreement, apply any proceeds received as a result of any of the

preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations:

(j) The Borrower agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a reasonably safe condition and (ii) in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof such that the Project shall be substantially the same condition at all times as the condition it is in at the time of the completion of the construction of the Project with the proceeds of the Note. Notwithstanding the foregoing, the Borrower's obligation to repair or rebuild the Project in the event of casualty or condemnation shall be subject to the terms of the Borrower Loan Agreement and the Mortgage.

(k) The Project will have one hundred eight (108) residential dwelling units, one of which will be a manager's unit.

(l) The Borrower will not sell dwelling units within the Project.

4. Restricted Units. The Borrower hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) Income and Rent Restrictions. In addition to the requirements of Section 5, hereof, the Borrower shall comply with the income and rent restrictions of this Section 4(a), and any conflict or overlap between any two or more of such provisions shall be resolved in favor of the most restrictive of such provisions.

(i) Low-Income Units. A total of fifty-three (53) units in the Project shall be rented to and continuously occupied by households who qualify as Low-Income Tenants; provided that if the manager's unit ceases to be used as a manager's unit, then such unit shall be rented to and continuously occupied by a Low-Income Tenant and the total number of units in the Project required to be rented to and continuously occupied by households who qualify as Low-Income Tenants shall be increased by one unit. The monthly rent charged for all Low Income Units shall not exceed one-twelfth of the amount obtained by multiplying 30% times 60% of the lower of City Median Income or Median Income for the Area. In the event that the Section 8 subsidy with respect to the Project is lost, the monthly rent charged for all Low Income Units shall not exceed one-twelfth of the amount obtained by multiplying 30% times 60% of the Median Income for the Area.

(ii) Very Low-Income Units. A total of fifty-four (54) units in the Project shall be rented to and continuously occupied by households who qualify as Very Low-Income Tenants. The monthly rent charged for all Very Low Income Units shall not exceed one-twelfth of the amount obtained by multiplying 30% times 50% of the lower of City Median Income or Median Income for the Area. In the event that the Section 8 subsidy with respect to the Project is lost, the monthly rent charged for all Very Low Income Units shall not exceed one-twelfth of the amount obtained by multiplying 30% times 50% of the Median Income for the Area.

(iii) Income Restrictions Pursuant to the Code. Pursuant to the requirements of Section 142(d) of the Code, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the manager's unit), or forty-three (43) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not be qualified Tenants pursuant to this sentence. The Borrower shall satisfy the requirements of this Section 4(a)(iii) by complying with the requirements of Section 4(a)(i), to the extent such compliance meets the requirements of Section 142(d)(1)(B) of the Code.

(iv) Income and Rent Restrictions Pursuant to the Act. Pursuant to the requirements of Section 52080(a)(1)(B) of the Housing Law, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the managers' unit), or forty-three (43) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not be qualified Tenants pursuant to this sentence. Pursuant to the requirements of the Section 52080(a)(1)(B) of the Housing Law, the monthly rent charged for such units shall not exceed one-twelfth of the amount obtained by multiplying 30% times 60% of the Median Income for the Area. The Borrower shall satisfy the requirements of this Section 4(a)(iv) by complying with the requirements of Section 4(a)(i), to the extent such compliance meets the requirements of Section 52080(a)(1)(B) of the Housing Law.

(v) CDLAC Requirements. To the extent the income and rent restrictions contained in the CDLAC Requirements are more restrictive than the requirements of Sections 4(a)(i), (ii), (iii) or (iv), the Borrower shall comply with the CDLAC Requirements.

(b) Over-Income Tenants. Notwithstanding the foregoing provisions of Section 4(a), no Tenant qualifying as a Low Income Tenant or a Very Low Income Tenant upon initial occupancy shall be denied continued occupancy of a Restricted Unit in the Project because, after admission, the aggregate Adjusted Income of all Tenants in the Restricted Unit increases to exceed the qualifying limit for such Restricted Unit.

However, should the aggregate Adjusted Income of Tenants in a Restricted Unit, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for such Restricted Unit occupied by the same number of Tenants, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Qualified Tenant. The unit occupied by such Tenants whose aggregate Adjusted Income exceeds such applicable income limit shall continue to be treated as occupied by a Qualified Tenant for purposes of the requirements of Section 4(a) hereof unless and until an Available Unit of comparable or smaller size is rented to persons other than a Qualified Tenant. Moreover, a unit previously occupied by a Qualified Tenant and then vacated

shall be considered occupied by a Qualified Tenant until reoccupied, other than a reoccupation for a temporary period, at which time the character of the unit shall be re-determined. In no event shall such temporary period exceed thirty-one (31) days. The parties agree that this paragraph shall have no practical effect because, except as otherwise provided in Section 4(a), 100% of the units in the Project are required to be Restricted Units pursuant to Section 4(a).

(c) Income Certifications. The Borrower will obtain, complete and maintain on file an Income Certification Form for each Tenant (i) immediately prior to the initial occupancy of a Restricted Unit by such Tenant, and (ii) thereafter, annually, in each case by completing an Income Certification Form, together with such information, documentation and certifications as are required therein or by the City, in its discretion, to substantiate the Tenant's income. In addition, the Borrower will provide such further information as may be required in the future by the State of California, the City, the Program Administrator and by the Act, Section 142(d) of the Code or the Treasury Regulations, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code.

(d) Certificate of Continuing Program Compliance. Upon the commencement of the Qualified Project Period, and on each February 1st thereafter (or such other date as shall be requested in writing by the City or the Program Administrator) during the term of this Regulatory Agreement, the Borrower shall advise the Program Administrator of the status of the occupancy of the Project by delivering to the Program Administrator (with a copy to the Fiscal Agent) a Certificate of Continuing Program Compliance (a form of which is attached hereto as Exhibit D). The Borrower shall also timely provide to the City such information as is requested by the City to comply with any reporting requirements applicable to it with respect to the Note or the Project under any federal or State law or regulation, including without limitation, CDLAC regulations.

(e) Recordkeeping. The Borrower will maintain complete and accurate records pertaining to the Restricted Units, and will permit any duly authorized representative of the City, the Program Administrator (if other than the City), the Fiscal Agent, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project upon reasonable notice during normal business hours, including those records pertaining to the occupancy of the Restricted Units, but specifically excluding any material which may be legally privileged.

(f) Annual Certification to Secretary of Treasury. The Borrower shall submit to the Secretary of the Treasury annually on or before March 31 of each year, or such other date as is required by the Secretary of the Treasury, a completed Internal Revenue Service Form 8703, and shall provide a copy of each such form to the Program Administrator and the Fiscal Agent. Failure to comply with the provisions of this paragraph will subject the Borrower to penalty, as provided in Section 6652(j) of the Code.

(g) Lease Provisions Regarding Income Certification Reliance. All leases pertaining to Restricted Units do and shall contain clauses, among others, wherein each Tenant

who occupies a Restricted Unit: (1) certifies the accuracy of the statements made in the Income Certification Form, (2) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such Tenant, that such Tenant will comply promptly with all requests for information with respect thereto from the Borrower or the Program Administrator on behalf of the City, and that the failure to provide accurate information in the Income Certification Form or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such Tenant; (3) acknowledges that the Borrower has relied on the Income Certification Form and supporting information supplied by the Tenant in determining qualification for occupancy of the Restricted Unit, and that any material misstatement in such certification (whether intentional) will be cause for immediate termination of such lease or rental agreement; and (4) agrees that the Tenant's income is subject to annual certification in accordance with Subsection 4(c) hereof and that failure to cooperate with the annual recertification process reasonably instituted by the Borrower pursuant to Subsection 4(c) above may provide grounds for termination of the lease.

(h) Maintenance of Tenant Lists and Applications. All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business which is unrelated to the Project and shall be maintained, as required from time to time by the Program Administrator on behalf of the City, in a reasonable condition for proper audit and subject to examination during normal business hours by representatives of the Project, the City or the Fiscal Agent. Failure to keep such lists and applications or to make them available to the City or the Fiscal Agent shall be a default hereunder.

(i) Tenant Lease Subordination. All tenant leases or rental agreements shall be subordinate to this Regulatory Agreement.

(j) No Encumbrance, Demolition or Non-Rental Residential Use. The Borrower shall not take any of the following actions:

(i) encumber any portion of the Project or grant commercial leases of any part thereof, other than the Commercial Space, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases), except (i) pursuant to the provisions of this Regulatory Agreement and on a basis subordinate to the provisions of this Regulatory Agreement, to the extent applicable, (ii) upon receipt by the Borrower, the Fiscal Agent and the City of an opinion of Bond Counsel that such action will not adversely affect the Tax Exempt status of interest on the Note, or (iii) upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement;

(ii) demolish any part of the Project or substantially subtract from any real or personal property of the Project (other than in the ordinary course of business); or

(iii) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

(k) Compliance with Regulatory Agreement. The Borrower shall exercise reasonable diligence to comply with the requirements of this Regulatory Agreement and shall notify the City within fifteen (15) days and correct any noncompliance within sixty (60) days after such noncompliance is first discovered by the Borrower or would have been discovered by the exercise of reasonable diligence, unless such noncompliance is not reasonably susceptible to correction within sixty (60) days, in which event the Borrower shall have such additional time as may be reasonably necessary to effect such correction provided the Borrower has commenced such correction after discovery and is diligently prosecuting such correction.

5. Additional Requirements of the City.

(a) Minimum Lease Term. The term of the lease for any Restricted Unit shall be not less than one (1) year.

(b) Limitation on Rent Increases. Annual rent increases on a Restricted Unit shall be limited to the percentage of the annual increase in the City Median Income or Median Income for the Area, as applicable to that Unit. Rent increases which are permitted but not made in a given year may not be carried forward and made in any subsequent year.

(c) Appointment of Program Administrator. The Borrower acknowledges that the City may appoint a Program Administrator (other than the City), at the sole cost and expense of the City, to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with all reasonable requests by the City and the Program Administrator to deliver to the City and/or any such Program Administrator, in addition to or instead of the City, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection during normal business hours with reasonable notice by the Program Administrator as an agent of the City. The City may change the Program Administrator at its sole and exclusive discretion. The Borrower shall have the right to rely on any consent or direction given by the Program Administrator on the same basis as if given by the City.

(d) Management Agent. The Borrower shall not enter into any agreement providing for the management or operation of the Project with any party other than Mercy Housing Management Group, Inc. without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

(e) [Reserved]

(f) Nondiscrimination Based on Section 8, Household Size, or Source of Income. The Borrower shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, or any successor program or similar State or local governmental assistance program. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and the Borrower shall not refuse to rent to any tenant on the basis of household size as long as such household size does not exceed two (2) persons for a studio unit;

three (3) persons for a one-bedroom unit; five (5) persons for a two-bedroom unit and seven (7) persons for a three-bedroom unit. The Borrower shall not collect any additional fees or payments from such a tenant except security deposits or other deposits required of all tenants. The Borrower shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 program. The Borrower shall not discriminate against tenant applicants on the basis of legal source of income (e.g., TANF, Section 8 or SSI), and the Borrower shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (i.e., ability to pay shall be demonstrated if such a tenant can show that the same percentage or more of the tenant's income has been consistently paid on time for rent in the past as will be required to be paid for the rent applicable to the unit to be occupied, provided that such tenant's expenses have not increased materially).

(g) Overincome Provisions After Expiration of Qualified Project Period.

Notwithstanding the provisions of Section 4(b), from and after the expiration of the Qualified Project Period, in the event that Borrower's certification of a Qualified Tenant's income, pursuant to Section 4(c), indicates that the Qualified Tenant's income exceeds one hundred twenty percent (120%) of Median Income for the Area, the Borrower shall terminate such lease upon one hundred twenty (120) days prior written notice to the Tenant, and the lease for each Restricted Unit shall contain a statement to the foregoing effect. Notwithstanding the foregoing, the Borrower shall not be required to terminate said Qualified Tenant's lease if any regulation or statute governing the Project or the financing thereof prohibits the termination of said Tenant's lease in this manner. Further, Borrower shall comply with all notice provisions set forth in the Housing Act prior to terminating any lease to which any Tenant previously certified by the Borrower as a Qualified Tenant is a party. The Borrower acknowledges that (i) federal notice requirements under the Housing Act are distinct from those under State law or City law and the Borrower shall comply with all federal, State and local laws in connection with any such notice requirements, and (ii) compliance with the law of one jurisdiction shall not be deemed compliance with the laws of all jurisdictions.

(h) Consideration for Restrictions. It is hereby acknowledged and agreed that any restrictions imposed on the operation of the Project herein and which are in addition to those imposed pursuant to Section 142(d) of the Code or the Act are at the request of the Borrower, and that the Borrower has voluntarily agreed to such additional restrictions in order to obtain financial assistance from the City and an allocation of private activity bond volume cap from CDLAC.

(i) Amendment or Waiver by City; Conflicting Provisions. The requirements of Section 4(a)(i) and (ii) and of Section 5 hereof may be amended, modified or waived (but not increased or made more onerous), at the City's sole discretion, by written amendment signed by the City and the Borrower, or expressly waived by the City in writing, but no such waiver by the City shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the City and the Fiscal Agent have received an opinion of Bond Counsel to the effect that any such provision is not required by the Code or the Act and may be waived without adversely affecting the Tax Exempt status of interest on the Note. Any requirement of Section 4(a)(i) and (ii) or Section 5 shall be void and of no force and effect if the City, the Fiscal Agent and the Borrower receive a written opinion of Bond Counsel

to the effect that compliance with such requirement would be in conflict with the Act or any other applicable State or federal law.

(j) Extension of Qualified Project Period. Notwithstanding any other provision herein, the Qualified Project Period shall not expire earlier than, and the requirements of this Section 5 shall be in effect until, the date that is fifty-five (55) years after the Closing Date.

(k) Marketing Plan. The Borrower will market the Restricted Units in accordance with the marketing and tenant selection plan approved by the City, which shall comply with the requirements set forth in Exhibits K-I through K-III attached hereto. With respect to such Restricted Units, the Borrower must keep records of (a) activities implementing the affirmative marketing plan; (b) advertisements; and (c) other community outreach efforts for a period of at least three (3) years.

(l) Annual Reporting. The Borrower must file with the City annual report forms (the "Annual Monitoring Report") no later than one hundred twenty (120) days after the end of the Borrower's business year. The Annual Monitoring Report must be in substantially the form attached as Exhibit I or as later modified during the Qualified Project Period.

6. Additional Requirements of State Law. In addition to the requirements set forth above, pursuant to Section 52080 of the Housing Law, the Borrower hereby agrees that it shall also comply with each of the following requirements, in each case, for the term of this Regulatory Agreement set forth in Section 12 hereof:

(a) Tenants Under Section 8 of the Housing Act. The Borrower shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, and shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

(b) Availability on Priority Basis. The units reserved for occupancy as required by Section 4(a)(iv) shall remain available on a priority basis for occupancy at all times.

(c) Binding Covenants and Conditions. The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower.

(d) Recordation of Regulatory Agreement. This Regulatory Agreement shall be recorded in the office of the county recorder of the City and County of San Francisco, California, and shall be recorded in the grantor-grantee index under the name of the Borrower as grantor and the name of the City as grantee.

(e) Restricted Units of Comparable Quality. The Restricted Units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants and shall be distributed throughout the Project. Notwithstanding the foregoing, the parties agree that this Section 6(e) shall have no practical

effect because one hundred percent (100%) of the units (excluding the manager's unit) in the Project are required to be Restricted Units pursuant to Section 4(a)(i) and 4(a)(ii).

(f) Availability Following Expiration of Qualified Project Period. Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Note, assignment of the leasehold interest in the Project in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by Section 4(a)(iv) shall remain available to any eligible Tenant occupying a Restricted Unit at the date of such expiration or termination, at the rent determined by Section 4(a)(iv), until the earliest of (1) the household's income exceeds 140% of the maximum eligible income specified therein, (2) the household voluntarily moves or is evicted for good cause, as defined in the Housing Law, (3) thirty (30) years after the date of the commencement of the Qualified Project Period, and (4) the Borrower pays the relocation assistance and benefits to households if required by, and as provided in, Section 7264(b) of the California Government Code.

(g) Availability Preceding Expiration of Qualified Project Period. During the three (3) years prior to the later of (i) the expiration of the Qualified Project Period or (ii) the date that is fifty-five (55) years after the date of commencement of the Qualified Project Period, the Borrower shall continue to make available to eligible Qualified Tenants the Restricted Units that have been vacated to the same extent that non-reserved units, if any, are made available to non-eligible households.

(h) Notice and Other Requirements. The Borrower shall comply with all applicable requirements of Section 65863.10 of the California Government Code, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and shall comply with all applicable requirements of Section 65863.11 of the California Government Code.

(i) Syndication of the Project. As provided in Section 52080(e) of the Housing Law, the City hereby approves the syndication of tax credits with respect to the Project, pursuant to Section 42 of the Code, to the Investor Limited Partner, or any affiliate thereof or successor thereto, pursuant to the terms of the Partnership Agreement. Any syndication of tax credits with respect to the Project to an affiliate of the Investor Limited Partner shall not require the prior written approval of the City if the Borrower's partnership agreement will not be amended, modified or supplemented in connection with such syndication (other than as required to accurately identify the new parties); provided, however, that the Investor Limited Partner shall provide to the City, at least five (5) Business Days prior to the effective date of any such syndication (other than as required to accurately identify the new parties), written notice of such syndication certifying that no amendment, modification or supplement to the Partnership Agreement will be effected in connection with such syndication, together with copies of any assignments of limited partnership interests and any other syndication documents. Any other syndication of the Project shall be subject to the prior written approval of the Director of the Mayor's Office of Housing and Community Development of the City, which approval shall be granted only after the City determines that the terms and conditions of such syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the requirements of the City set forth in this Section 6 hereof to be subordinated to the

syndication agreement, and (3) shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

7. CDLAC Requirements. In addition to the other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 2 through 6 hereof, the Borrower hereby agrees to comply with the requirements of CDLAC set forth in this Section 7, as follows:

(a) The Borrower shall comply with CDLAC Resolution No. 17-54 adopted on May 17, 2017, attached hereto as Exhibit F (the "CDLAC Resolution") and the CDLAC conditions set forth in Exhibit A thereto (collectively the "CDLAC Requirements"), which conditions are incorporated herein by reference and made a part hereof.

(b) The Borrower acknowledges that the City shall monitor the Borrower's compliance with the CDLAC Requirements. The Borrower will cooperate fully with the City in connection with such monitoring and reporting requirements as provided herein. Compliance with the CDLAC Requirements not contained within this Regulatory Agreement, but referred to in the CDLAC Requirements are the responsibility of the Borrower to report to the City.

(i) Within thirty (30) days following the completion of the Project, the Borrower will prepare and submit to the City, CDLAC and the Lender, a Completion Certificate, executed by an Authorized Borrower Representative, certifying, among other things, to the substantial completion of the Project.

(ii) Not later than February 1 of each year, until the Borrower has submitted to the City and CDLAC a Completion Certificate, and on February 1 every three (3) years thereafter until the end of the Qualified Project Period, the Borrower shall prepare and submit to the City, a Certificate of CDLAC Compliance in substantially the form attached hereto as Exhibit G, executed by an Authorized Borrower Representative.

(c) Except as otherwise provided in Section 12 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date 55 years after the date on which at least 50% of the units in the Project are first occupied or such later date as the Qualified Project Period shall begin, as required by the CDLAC Requirements.

(d) The Borrower shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the name of the Project or the Project manager, (iii) any default under the Funding Loan Agreement, the Borrower Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax Exempt status of the Note and the income and rental restrictions as provided in this Regulatory Agreement and the CDLAC Requirements, or (v) termination of this Regulatory Agreement.

(e) [CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Conditions to the Borrower after the Closing Date, at any time, that are not more restrictive than the original CDLAC Conditions; provided however, that: (i) any changes in the terms and conditions of the CDLAC Conditions prior to the recordation against the Project in the real property records of the County of a regulatory agreement between Borrower and the CTCAC (the "TCAC Regulatory Agreement") shall be limited to such changes as are necessary

to correct any factual errors or to otherwise conform the CDLAC Conditions to any change in facts or circumstances applicable to the Borrower or the Project; and (ii) after recordation of the TCAC Regulatory Agreement, any changes in the terms and conditions of the CDLAC Conditions shall be limited to such changes as are necessary to conform Items 1, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and/or 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by Borrower and approved by CDLAC. The Borrower shall record or cause to be recorded in the real property records of the County an amendment to this Regulatory Agreement containing such revised CDLAC Conditions, executed by the parties hereto or their successor in title and pay any expenses in connection therewith. The Borrower shall provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

Any of the foregoing requirements of the CDLAC Conditions contained in this Section 7 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the City has received an opinion of Bond Counsel that any such provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Note for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the City and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Note to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other state or federal law.]

8. Indemnification. The Borrower hereby releases the City, the Lender and their respective officers, members, directors, officials and employees from, and covenants and agrees to indemnify, hold harmless and defend the City and the Lender and the officers, members, directors, officials, agents and employees of each of them (collectively, the "Indemnified Parties," and each an "Indemnified Party") from and against any and all claims, losses, costs, damages, demands, expenses, taxes, suits, judgments, actions and liabilities of whatever nature, joint and several (including, without limitation, costs of investigation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments), directly or indirectly (a) by or on behalf of any person arising from any cause whatsoever in connection with transactions contemplated hereby or otherwise in connection with the Project, the Note, or the execution or amendment of any document relating thereto; (b) arising from any cause whatsoever in connection with the approval of financing for the Project or the making of the Loan or otherwise, including without limitation, any advances of the Loan, or any failure by the Lender, as defined in the Funding Loan Agreement, to make any advance thereunder; (c) arising from any act or omission of the Borrower or any of its agents, servants, employees or licensees, in connection with the Loan or the Project; (d) arising in connection with the issuance and sale, resale or reissuance of any bonds, any secondary market transaction, or any certifications or representations made by any person other than the City or the party seeking indemnification in connection therewith and the carrying out by the Borrower of any of the transactions contemplated by the Funding Loan Agreement, the Borrower Loan Agreement and this Regulatory Agreement; (e) arising in connection with the operation of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, or

construction of, the Project or any part thereof; and (f) arising out of or in connection with the exercise by the Lender, the Fiscal Agent or the Servicer of their powers or duties under the Funding Loan Agreement, the Borrower Loan Agreement, this Regulatory Agreement or any other agreements in connection therewith to which either of them is a party; provided, however, that this provision shall not require the Borrower to indemnify (i) the Lender from any claims, costs, fees, expenses or liabilities arising from the negligence or willful misconduct of the Lender, or (ii) the City for any claims, costs, fees, expenses or liabilities arising solely from the willful misconduct of the City. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party; and the Borrower shall assume the payment of all reasonable fees and expenses related thereto, with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Notwithstanding the foregoing, no indemnification obligation shall give rise to an obligation to pay principal and interest on the Loan, which is not otherwise set forth in the Funding Loan Agreement, the Borrower Loan Agreement, the Note or any other agreement relating to the Note.

The Borrower also shall pay and discharge and shall indemnify and hold harmless the City and the Lender from (i) any lien or charge upon payments by the Borrower to the City and the Lender hereunder and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the City or the Lender shall give prompt notice to the Borrower, and the Borrower shall have the sole right and duty to assume, and will assume, the defense thereof, including the employment of counsel approved by the Indemnified Party in such party's reasonable discretion, provided that if the Indemnified Party is the City, the selection of counsel rests in the sole discretion of the City Attorney, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. If a potential conflict exists between Borrower's defense and the interests of an Indemnified Party, then such Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding any transfer of the Project to another Borrower in accordance with the provisions of Section 11 of this Regulatory Agreement, the Borrower shall remain obligated to indemnify the City pursuant to this Section 8 if such subsequent Borrower fails to so indemnify the City, unless at the time of transfer the City has consented to the transfer to the extent such consent is required hereunder.

The provisions of this Section 8 shall survive the term of the Note and this Regulatory Agreement, including the termination of this Regulatory Agreement pursuant to the second paragraph of Section 12, hereof.

The obligations of the Borrower under this Section are independent of any other contractual obligation of the Borrower to provide indemnity to the Indemnified Parties or otherwise, and the obligation of the Borrower to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Borrower. The Indemnified Parties shall be entitled simultaneously to seek indemnity under this Section and any other provision under which it is entitled to indemnity.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Indemnified Parties in enforcing the provisions hereof.

9. Consideration. The City has executed and delivered the Note and made the Loan to provide funds for the purpose of financing the Project, all for the purpose, among others, of inducing the Borrower to acquire, rehabilitate, equip and operate the Project. In consideration of the making of the Loan by the City, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the use of the Project on the terms and conditions set forth herein.

10. Reliance. The City and the Borrower hereby recognize and agree that the representations, warranties, covenants and agreements set forth herein may be relied upon by all persons interested in the legality and validity of the Note, and in the Tax Exempt status of interest on the Note. In performing its duties and obligations hereunder, the City may rely upon statements and certificates of the Borrower and Qualified Tenants, and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the City may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City hereunder in good faith and in conformity with such opinion.

11. Sale or Transfer of the Project. The Borrower intends to hold the Project for its own account, has no current plans to sell, transfer or otherwise dispose of the Project (except in accordance with the Partnership Agreement), and, except as otherwise provided herein, hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof (other than for individual tenant use or with respect to the Commercial Space, as contemplated hereunder) or interest therein, including any interest in the Borrower, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld, and receipt by the City of (i) evidence satisfactory to the City that the Borrower's purchaser or transferee has assumed in writing and in full, the Borrower's duties and obligations under this Regulatory Agreement, (ii) an opinion of counsel of the transferee that the transferee has duly assumed the obligations of the Borrower under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee, (iii) evidence acceptable to the City that either (A) the purchaser or assignee has experience in the ownership, operation and management of rental housing projects in the City such as the Project without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects, or (B) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subparagraph (A) above or (C) if the purchaser or assignee does not have management experience, the City may cause the Program Administrator to provide on-site training in program compliance if the City determines such training is necessary, (iv) evidence satisfactory to the City that no event of default exists under this Regulatory Agreement, the Borrower Loan Agreement or any

document related to the Loan, and payment of all fees and expenses of the City and the Fiscal Agent due under any of such documents is current, and (v) an opinion of Bond Counsel to the effect that such transfer will not, in itself, cause interest on the Note to become includable in the gross income of the recipients thereof for federal income tax purposes. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 11 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section 11 shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Not less than 60 days prior to consummating any sale, transfer or disposition of any interest in the Project, the Borrower shall deliver to the City a notice in writing explaining the nature of the proposed transfer. Notwithstanding the foregoing, the provisions of this Section 11 shall not apply to the transfer of all or any portion of (a) the limited partner interest of the Investor Limited Partner in the Borrower (which is instead subject to paragraph (i) of Section 6), or (b) the General Partner interest to an affiliate of the General Partner.

12. Term. Subject to the following paragraph of this Section 12, Section 8 hereof and to any other provision expressly agreed herein to survive the termination of this Regulatory Agreement, this Regulatory Agreement and all of the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect for the longer of (a) the Qualified Project Period or (b) fifty-five (55) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of (i) involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date, which prevents the City from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, transfer of title by assignment of the leasehold interest in the Project in lieu of foreclosure, or condemnation or a similar event, but only if, in case of the events described in either clause (i) or (ii) above, within a reasonable period, either the Note is paid in full or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure, exercise of power of sale, or the delivery of an assignment of the leasehold interest in the Project in lieu of foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, exercise of power of sale, transfer of title by assignment of the leasehold interest in the Project in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provisions of this Regulatory Agreement to the contrary, this entire Regulatory Agreement, or any of the provisions or sections hereof, may be terminated upon agreement by the City and the Borrower subject to compliance with any of the provisions contained in this Regulatory Agreement only if there shall have been received an opinion of Bond Counsel that such termination will not adversely affect the Tax Exempt status of

interest on the Note or the exemption from State personal income taxation of the interest on the Note. The Borrower shall provide written notice of any termination of this Regulatory Agreement to the City.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

13. Covenants to Run With the Land. The Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. No breach of any of the provisions of this Regulatory Agreement shall defeat or render invalid the lien of a mortgage made in good faith and for value encumbering the Site.

14. Burden and Benefit. The City and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The City and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Note was executed and delivered.

15. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Site.

16. Enforcement. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of sixty (60) days after written notice thereof shall have been given by the City to the Borrower (provided, however, that the City may at its sole option extend such period if the default is of the nature which would reasonably require more than 60 days to cure and if the Borrower provides the City, if requested by the City, with an opinion of Bond Counsel to the effect that such extension will not adversely affect the Tax Exempt status of interest on the Note), then the City may declare an "event of default" to have occurred hereunder, and, subject to the provisions of the Funding Loan Agreement, may take any one or more of the following steps:

(a) by mandamus or other suit, action or proceeding at law or in equity, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder; or

(b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project; or

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the occurrence of an event of default under this Regulatory Agreement shall not be deemed, under any circumstances whatsoever, to be a default under the Mortgage except as may be otherwise specified in the Mortgage.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the City agrees that any cure of any default made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

17. Recording and Filing. The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the City and County of San Francisco, California, and in such other places as the City may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

18. Payment of Fees. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Funding Loan Agreement and/or the Borrower Loan Agreement, the Borrower shall continue to pay the City's annual administrative fee as calculated and described below. Upon the occurrence of an event of default hereunder, the Borrower shall continue to pay to the City compensation for any services rendered by any of them hereunder and reimbursement for all expenses incurred by it in connection therewith.

The Borrower shall pay to the City (i) an initial issuance fee of \$_____ (which is equal to one quarter of one percent (0.25%) of the par amount of the Note) and (ii) an annual administrative fee not to exceed one eighth of one percent (0.125%) of the principal amount of the Note then outstanding, but no less than \$2,500, commencing on the Closing Date and thereafter on each anniversary date of the Closing Date thereafter during the term of this Regulatory Agreement. The first installment of the annual administrative fee is equal to \$_____. The total payment of the Borrower due to the City on the Closing Date shall be \$_____. [For purposes of this paragraph, the total par amount of the Note shall be considered outstanding until the Conversion Date (as defined in the Funding Loan Agreement)].

In case any action at law or in equity, including an action for declaratory relief, is brought against the Borrower to enforce the provisions of this Regulatory Agreement, the Borrower agrees to pay reasonable attorney's fees and other reasonable expenses incurred by the City, the Lender, and/or the Program Administrator in connection with such action.

19. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California.

20. Amendments. To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the City, the Fiscal Agent and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement which must be complied with in order to maintain the Tax Exempt status of interest on the Note, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements. Otherwise, this Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the City and County of San Francisco, California, provided that any amendment to the CDLAC Requirements shall also be subject to the consent of CDLAC.

21. City Contracting Provisions. The Borrower covenants and agrees to comply with the provisions set forth in Exhibit H to this Regulatory Agreement, which is incorporated in and made a part of this Regulatory Agreement by this reference.

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

If to the City:

City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 316
San Francisco, California 94102
Attention: City Controller

With copies to:

City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 140
San Francisco, California 94102
Attention: City Treasurer

City and County of San Francisco
Mayor's Office of Housing and Community
Development
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attention: Director

Office of the City Attorney
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, California 94102
Attention: Finance Team

If to the Borrower: 455 Fell, L.P.
1360 Mission Street, Suite 300
San Francisco, CA 94103

With a copy to: Gubb & Barshay
505 14th Street, Suite 1050
Oakland, CA 94612
Attention: Evan Gross

If to the Investor Limited Partner: Bank of America Merrill Lynch
555 California Street, 6th Floor
San Francisco, CA 94104
Attention: Ari Beliak
Telephone: (415) 913-3215
Facsimile: (415) 519-4275

With a copy to: Sidley Austin LLP
One South Dearborn
Chicago, IL 60603

If to the Lender: Bank of America, N.A.

With a copy to: Paul Hastings LLP
515 South Flower Street, 25th Floor
Los Angeles, CA 90071

Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

23. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

24. Multiple Counterparts. This Regulatory Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

25. Third-Party Beneficiaries. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are entered into for the benefit of various parties, including CDLAC. The parties hereto acknowledge that the Lender is a third party beneficiary of this Regulatory Agreement. CDLAC shall accordingly have contractual rights in this Regulatory Agreement and shall be

entitled (but not obligated) to enforce, in accordance with Section 16 hereof, the terms hereof and the terms of the CDLAC Resolution. In addition, CDLAC is intended to be and shall be a third-party beneficiary of this Regulatory Agreement. Notwithstanding the above, CDLAC shall be entitled solely to enforce the terms of the CDLAC Resolution, and any enforcement of the terms and provisions of the CDLAC Resolution by CDLAC shall not adversely affect the interests of the Lender, and shall otherwise be subject to the terms, conditions and limitations otherwise applicable to the enforcement of remedies under this Regulatory Agreement. Pursuant to Section 52080(k) of the Housing Law, the provisions of Section 6 hereof may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with that Section.

[Signatures appear on next page]

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

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Kate Hartley, Acting Director
Mayor's Office of Housing and
Community Development

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By _____
Deputy City Attorney

[Signatures continue on following page.]

OWNER:

455 FELL, L.P., A California limited partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Its: _____

[FISCAL AGENT], as Fiscal Agent

By: _____
Its:

EXHIBIT A
LEGAL DESCRIPTION OF THE SITE

EXHIBIT B

INCOME CERTIFICATION FORM

A current version of the CTCAC form may be downloaded from the State Treasurer's website at the following link: <http://www.treasurer.ca.gov/ctcac/compliance/tic.pdf>.

EXHIBIT C

COMPLETION CERTIFICATE

CITY AND COUNTY OF SAN FRANCISCO

Mayor's Office of Housing and Community Development

1 South Van Ness Avenue, 5th Floor

San Francisco, California 94103

The undersigned Borrower (the "Borrower") of the 455 Fell Street Apartments hereby certifies that all aspects of the construction of the Project were substantially completed and available for occupancy by tenants in the Project as of _____. Capitalized terms used herein but not defined shall have the meanings given in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of October 1, 2017, by and among the City and County of San Francisco, the Fiscal Agent and the Borrower.

1. The undersigned hereby certifies that:

(a) all aspects of the construction of the Project were substantially completed and available for occupancy by tenants in the Project as of _____ (the "Completion Date")

(b) the aggregate amount disbursed on the Loan to date is
\$ _____;

(c) all amounts disbursed on the Loan have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed on the Loan has been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and

(d) as shown on the attached sheet (showing the breakdown of expenditures for the Project and the source of the funds which were used to pay such costs), at least ninety-seven percent (97%) of the amounts disbursed on the Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs and less than twenty-five percent (25%) of the amounts disbursed on the Loan, exclusive of amounts applied to pay the Costs of Issuance related to the Note, have been applied to pay or reimburse the Borrower for the cost of acquiring land.

[Signatures appear on next page]

OWNER:

455 FELL, L.P., A California limited partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Its: _____

EXHIBIT D

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Project Name:

CDLAC Application Number(s): 17-349

CDLAC Resolution Number(s): 17-54

Property Address: 455 Fell Street, San Francisco, California 94102

Project Completion Date (if completed, otherwise mark NA):

Name of Obligation: City and County of San Francisco Multifamily Housing Revenue Note (455 Fell Street Apartments), Series 2017D

The undersigned, being the authorized representatives of 455 Fell, L.P., a California limited partnership (the "Borrower"), hereby certifies that he/she has read and is thoroughly familiar with the provisions of the various documents associated with the Borrower's participation in the City and County of San Francisco (the "City") Multifamily Housing Program, such documents including:

1. the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of October 1, 2017 (the "Regulatory Agreement"), between the Borrower, the Fiscal Agent and the City; and
2. the Borrower Loan Agreement, dated as of October 1, 2017, between the City, the Fiscal Agent, and the Borrower.

The undersigned further certifies that:

A. There have been no changes to the ownership entity, principals or property management of the Project since the Note was executed and delivered, or since the last certification was provided (as applicable), except as described below:

(If so please attach a request to revise the CDLAC Resolution, noting all pertinent information regarding the change, otherwise state "NONE")

If Project has not yet been placed in service, mark N/A for the balance of the items below:

B. During the preceding twelve-months (i) such Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the City and (ii) and ___ of the units in the Project were occupied by Low Income Tenants (minimum of 44).

C. As of the date of this Certificate, the following percentages of completed residential units in the Project (as defined in the Regulatory Agreement) (i) are occupied by Low Income Tenants (as such term is defined in the Regulatory Agreement), or (ii) are currently vacant and

being held available for such occupancy and have been so held continuously since the date a Low Income Tenant vacated such unit, as indicated below:

Occupied by Low Income Tenants:

1 bedroom units:	Unit Nos. _____
2 bedroom units: _____	Unit Nos. _____
3 bedroom units: _____	Unit Nos. _____
4 bedroom units: _____	Unit Nos. _____

Total percentage occupied by Low Income Tenants: _____

Held vacant for occupancy continuously since last occupied by a Low Income Tenant:

_____%; Unit Nos. _____

Vacant Units:

_____%; Unit Nos. _____

It hereby is confirmed that each tenant currently residing in a unit in the Project has completed an Income Certification Form in the form approved by the City and that since commencement of the Qualified Project Period (as such term is defined in the Regulatory Agreement), not less than 40% of the occupied units in the Project (excluding the two managers' units) have been rented to (or are vacant and last occupied by) Low Income Tenants. The undersigned hereby certifies that the Borrower is not in default under any of the terms and provisions of the above documents.

D. The units occupied by Low Income Tenants are of similar size and quality to other units and are dispersed throughout the Project.

E. Select appropriate certification: [No unremedied default has occurred under this Regulatory Agreement, the Note, the Borrower Loan Agreement or the Mortgage.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

F. There has been no change of use for the Project, except as follows: (please describe if any, or otherwise indicate "NONE")

G. Select appropriate certification: The undersigned hereby certifies that the Project [has satisfied all] [except as described below, has satisfied all] of the requirements memorialized in the Exhibit A of the CDLAC Resolution, a copy of which is attached hereto (i.e. qualifying project completion, qualifying depreciable asset purchase, qualifying loan originations, the use of public funds, manager units, income rent restrictions, sustainable building methods, etc., as applicable), and thus has achieved all public benefit requirements (excluding service amenities) as presented to CDLAC.

[Describe any requirements not satisfied: _____]

H. As captured in Exhibit A of the Resolution, the Project has committed to and is currently providing the following service amenities for a minimum of ten years, on a regular and ongoing basis, which are provided free of charge (with the exception of day care services):

Please check the services that apply or write N/A where appropriate:

_____ After-school Programs

_____ Educational, health and wellness, or skill building classes

_____ Health and Wellness services and programs (not group classes)

_____ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)

_____ Bona-Fide Service Coordinator/ Social Worker

1) For this reporting period, attached is evidence (i.e. MOUs, contracts, schedules, calendars, flyers, sign-up sheets, etc.) confirming that the above listed services are being provided and have met the requirements of Exhibit A of the Resolution.

2) If any of the above services requirements were not met, what corrective action is being taken to comply?

(Please also attach the completed project sponsor certification form as provided in the CDLAC Resolution)

(Please also attach the completed Occupancy and Rent Information form attached hereto)

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

I. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief, and the undersigned acknowledges and agrees that the City will be relying solely on the foregoing certifications and accompanying documentation, if any, in making its certification to CDLAC pursuant to Section 5144 of the CDLAC Regulations, and agrees to provide to the City such documentation or evidence, in support of the foregoing certifications, as the City or CDLAC may request.

Date: _____

455 FELL, L.P., A California limited partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Its: _____

EXHIBIT E

CERTIFICATE AS TO COMMENCEMENT OF QUALIFIED PROJECT PERIOD

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attention: Executive Director

\$[Par Amount]
City and County of San Francisco
Multifamily Housing Revenue Note
(455 Fell Street Apartments), Series 2017D

The undersigned, being the authorized representative(s) of 455 Fell, L.P., a California limited partnership, hereby certifies that: (complete blank information):

Ten percent (10%) of the dwelling units in the Project financed in part from the proceeds of the captioned Note were first occupied on _____;

Fifty percent (50%) of the dwelling units in the Project financed in part from the proceeds of the captioned Note were first occupied on _____.

DATED:

OWNER:

455 FELL, L.P., A California limited partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Its: _____

Acknowledged:

City and County of San Francisco

By: _____
Name, Title

EXHIBIT F
CDLAC RESOLUTION

EXHIBIT G

CDLAC CERTIFICATION OF COMPLIANCE II

1. Project Name: 455 Fell Street Apartments

(If Project name has changed since the award of allocation, please note the original Project name as well as the new Project name and request a change in the CDLAC Resolution.)

2. CDLAC Application No.: 17-349

3. Issuer of the Bonds: City and County of San Francisco

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

4. Borrower: 455 Fell, L.P.

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

5. Management Company: Mercy Housing Management Group

(If the management company has changed since the award of allocation, please note the original management company as well as the new management company.)

6. Has the Qualified Project Period commenced? No _____ Yes _____
No _____ Yes _____ Already submitted certification

If yes, please submit the Certificate of Qualified Project Period (one time only)

7. Has the Project been completed and placed in service? No _____ Yes _____
No _____ Yes _____ Already submitted certificate

If yes, please submit Completion Certificate (one time only)

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

No _____ Yes _____

If so, please describe and explain:

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

No _____ Yes _____

If so, please describe and explain:

10.

Federally Bond Restricted Units (Reflected in PSR)	Other Restrictions (Reflected in PSR)	Total (Reported in CDLAC Resolution)
_____ at 50% AMI	_____ at 50% AMI	_____ at 50% AMI
_____ at 60% AMI	_____ at 60% AMI	_____ at 60% AMI
Total _____	Total _____	Total _____

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units:

Bedroom Type	# of Units in PSR	# of Units in CDLAC Resolution
1 Bedroom	_____	_____
2 Bedroom	_____	_____
3 Bedroom	_____	_____

12. If the Project has committed to and is currently provided the service amenities for a term as specified in the CDLAC Resolution, please verify the services are being provided on a regular and ongoing basis, which are provided free of charge, and all hour requirements are being met:

- _____ After-school Programs
- _____ Educational, health and wellness, or skill building classes
- _____ Health and Wellness services and programs (not group classes)
- _____ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
- _____ Bona-Fide Service Coordinator/Social Worker
- _____ Not applicable

If applicable, is the service being offered on an ongoing basis and provided free of charge (childcare excepted)?

No _____ Yes _____

Are all hour requirements being met?

No _____ Yes _____

If applicable, attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution, including, but not limited to, MOUs and/or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.

Pursuant to Section 13 of Resolution No. 17-54 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on May 17, 2017, I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above.

I further certify that I have read and understand the Resolution, which specifies that once the Note is executed and delivered, the terms and conditions set forth in the Resolution and Exhibit A thereto shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Signature of Officer

Date

Printed Name of Officer

Phone Number

Title of Officer

EXHIBIT H

CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Regulatory Agreement as if set forth in the body thereof. Capitalized terms used but not defined in this Exhibit shall have the meanings given in this Regulatory Agreement.

1. Conflict of Interest. Through its execution of this Regulatory Agreement (the "Agreement"), Borrower acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

2. Proprietary or Confidential Information of City. Borrower understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Borrower may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Borrower agrees that all information disclosed by City to Borrower shall be held in confidence and used only in performance of the Agreement. Borrower shall exercise the same standard of care to protect such information as a reasonably prudent Borrower would use to protect its own proprietary data.

3. Local Business Enterprise Utilization; Liquidated Damages.

a. **The LBE Ordinance.** Borrower shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Borrower's obligations or liabilities, or materially diminish Borrower's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Borrower's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Borrower's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Borrower shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. **Enforcement.** If Borrower willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Borrower shall be liable for liquidated damages in an amount equal to Borrower's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE

Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Borrower authorized in the LBE Ordinance, including declaring the Borrower to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Borrower's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Borrower acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Borrower further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Borrower on any contract with City. Borrower agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

4. Nondiscrimination; Penalties.

a. **Borrower Shall Not Discriminate.** In the performance of this Agreement, Borrower agrees not to discriminate against any employee, City and County employee working with such Borrower or the Borrower's subcontractors (each, a "Subcontractor"), applicant for employment with such Borrower or Subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Borrower shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all Subcontractors to comply with such provisions. Borrower's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. **Nondiscrimination in Benefits.** Borrower does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B:2(b) of the San Francisco Administrative Code.

d. **Condition to Contract.** As a condition to this Agreement, Borrower shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly "Human Rights Commission").

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated

in this Section by reference and made a part of this Agreement as though fully set forth herein. Borrower shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Borrower understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Borrower and/or deducted from any payments due Borrower.

5. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Borrower acknowledges and agrees that he or she has read and understood this section.

6. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges Borrowers not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

7. Drug-Free Workplace Policy. Borrower acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Borrower agrees that any violation of this prohibition by Borrower, its employees, agents or assigns will be deemed a material breach of this Agreement.

8. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Borrower to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

9. Compliance with Americans with Disabilities Act. Borrower acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Borrower, must be accessible to the disabled public. Borrower shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Borrower agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Borrower, its employees, agents or assigns will constitute a material breach of this Agreement.

10. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, Borrowers’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

11. Limitations on Contributions. Through execution of this Agreement, Borrower acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Borrower acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Borrower further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Borrower's board of directors; Borrower's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Borrower; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Borrower. Additionally, Borrower acknowledges that Borrower must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Borrower further agrees to provide to City the names of each person, entity or committee described above.

12. Requiring Minimum Compensation for Covered Employees.

a. Borrower agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Borrower's obligations under the MCO is set forth in this Section. Borrower is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Borrower to pay Borrower's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Borrower is obligated to keep informed of the then-current requirements. Any subcontract entered into by Borrower shall require the Subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Borrower's obligation to ensure that any Subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any Subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Borrower.

c. Borrower shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Borrower shall maintain employee and payroll records as required by the MCO. If Borrower fails to do so, it shall be presumed that the Borrower paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Borrower's job sites and conduct interviews with employees and conduct audits of Borrower.

f. Borrower's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Borrower fails to comply with these requirements. Borrower agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Borrower's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Borrower understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Borrower fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Borrower fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Borrower represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Borrower is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Borrower later enters into an agreement or agreements that cause Borrower to exceed that amount in a fiscal year, Borrower shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Borrower and this department to exceed \$25,000 in the fiscal year.

13. Requiring Health Benefits for Covered Employees.

Borrower agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Borrower shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Borrower chooses to offer the health plan

option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Borrower is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Borrower's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Borrower if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Borrower fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Borrower fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Borrower shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Borrower shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Borrower shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Borrower based on the Subcontractor's failure to comply, provided that City has first provided Borrower with notice and an opportunity to obtain a cure of the violation.

e. Borrower shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Borrower's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Borrower represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Borrower shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Borrower shall keep itself informed of the current requirements of the HCAO.

i. Borrower shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Borrower shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Borrower shall allow City to inspect Borrower's job sites and have access to Borrower's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Borrower to ascertain its compliance with HCAO. Borrower agrees to cooperate with City when it conducts such audits.

m. If Borrower is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Borrower later enters into an agreement or agreements that cause Borrower's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Borrower and the City to be equal to or greater than \$75,000 in the fiscal year.

14. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Borrower may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Borrower agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Borrower violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Borrower from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Borrower's use of profit as a violation of this section.

15. Preservative-treated Wood Containing Arsenic. Borrower may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Borrower may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Borrower from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

16. Compliance with Laws. Borrower shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time..

17. Protection of Private Information. Borrower has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Borrower agrees that any failure of Borrower to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the

Borrower pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Borrower.

18. Food Service Waste Reduction Requirements. Borrower agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Borrower agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Borrower agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Borrower's failure to comply with this provision

19. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any Borrower, Subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A Borrower, Subcontractor or consultant will be deemed to have submitted a false claim to the City if the Borrower, Subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

EXHIBIT I
FORM OF ANNUAL MONITORING REPORT

See Attached.

EXHIBIT J

OPERATIONAL RULES FOR SAN FRANCISCO HOUSING LOTTERIES AND RENTAL LEASE UP ACTIVITIES

In order to implement consistent and transparent marketing practices for all affordable housing under the purview of the Mayor's Office of Housing and Community Development (MOHCD), the following policies and procedures have been adopted. 455 Fell, L.P., a California limited partnership (the "Borrower") hereby acknowledges and agrees to follow these procedures as outlined below.

If ever there is a conflict between a recorded development agreement and this document, the executed development agreement will prevail. Likewise, when state and federal funding sources conflict with anything outlined in these guidelines, they too shall prevail.

HOUSING PREFERENCE PROGRAMS

The Borrower hereby agrees that first preference in occupying units designated for Very Low Income Households (Very Low Income Units) will be given to persons who have been issued a Residential Certificate of Preference (COP) and who meet all qualifications for the unit.

If a project is being marketed prior to when MOHCD reviews and approves the Displaced Tenant Housing Preference (DTHP), the Borrower agrees that DTHP shall be the second preference in occupying units, all of the same conditions and procedures will apply to the Displaced Tenants Housing Act (DTHP) Certificate holders as EAHP is the predecessor to the DTHP.

For new residential developments going through the initial lease-up process, the DTHP priority shall apply to twenty percent (20%) of the Very Low Income Units. Thus, if the number of units available exceeds the number of qualified applicants who hold a COP or other preference as dictated by specific loan documents or marketing plan, the next priority will go to DTHP certificate holders for up to 20% of the total Low Income Units. The DTHP priority does not apply at initial lease-up or sale to buildings having four (4) or fewer Very Low Income Units. However, the DTHP priority does apply to these same units upon re-sale.

Very Low Income Units with other occupancy priorities required by law, contract, or program rules may apply the COP and DTHP after other preferences, with COP holders being granted priority above DTHP certificate holders. There may be project-specific preferences or ones required by a former Redevelopment Project Area Plan that are not pre-empted by the COP Program or the Displaced Tenants Housing Preference Program.

Marketing and Tenant Selection Plan

The Borrower agrees to provide MOHCD with a complete and updated marketing plan at least twelve months prior to construction completion. The Marketing and Tenant Selection Plan shall be submitted on a template form as provided by MOHCD. This information shall not be changed without providing MOHCD with fourteen (14) calendar days' written notice.

New rental units shall be marketed for at least a 28-day period, including a listing on MOHCD and/or its agent's website and on the email housing alert system. Applicants shall submit an abridged lottery application form only and supply full income and other documentation if selected in the lottery process to proceed with a rental.

Outreach to Certificate Holders

MOHCD shall furnish the following:

- Written and/or printed notices to COP certificate holders advising them that units will soon be available.
- Names and addresses of COP certificate holders. MOHCD shall address printed notices created by Borrower using a template provided by MOHCD. Borrower is responsible for the full cost of the mailing to COP certificate holders.
- Assistance to qualified tenants in filing COP and DTHP applications or referral to an appropriate housing counseling organization.

The Borrower agrees to:

- Written and mailed notices to COP certificate holders advising them that units are available using a template provided by MOHCD. COP mailings are at the cost of the Borrower.
- During the application period, conduct at least one general informational meeting for all persons interested in applying for occupancy in the development, at which the Borrower shall review application procedures.
- Specifically for COP and DTHP certificate holders, make support services staff available to provide assistance throughout the application process, as it may be needed, with the goal of maximizing COP/DTHP participation to the extent possible. The Borrower shall ensure that COP/DTHP holders are aware that such assistance is available.

Application

The Borrower agrees to use a pre-lottery application template provided by MOHCD. After the lottery, the Borrower may require applicant to complete an additional application which is included in the Marketing Plan and pre-approved by MOHCD.

Pre-Lottery Application Status Reports

The Borrower agrees to supply MOHCD with the names, addresses, and housing preference certificate numbers (when available) of all applicants including whether or not they indicate they are eligible for COP or DTHP priority status. MOHCD will provide a template to be used to provide this status report, at a minimum, every seven (7) calendar days from the initial date applications are accepted. MOHCD will, in turn, verify within seven (7) calendar days which such applicants are qualified as COP or DTHP certificate holders.

After the application period has closed, and at least 5 business days prior to lottery proceedings, a non-prioritized list of all interested applicants will be provided to MOHCD on the template provided. The list shall include applicant names, addresses, and whether the applicant holds a COP or DTHP certificate. If MOHCD does not receive this final applicant list within 5 business days of the lottery, it will be cause to postpone the lottery proceedings until the complete list is received.

In addition to these status reports, the Borrower also agrees to provide a COP Outreach Obligation report summarizing the outreach efforts made to and communication with COP holders in the early outreach and marketing processes.

Lottery

Borrower shall ensure that all COP holders receive first priority for occupancy, and on projects where there are no funding source constraints, DTHP certificate holders receive second priority for occupancy in 20% of units.

Borrower shall hold a public lottery to select renters. Applicants who submit a complete application by the application deadline receive a numbered lottery ticket whose twin ticket is entered into the lottery. Upon pre-approval from MOHCD, lotteries may also be conducted using names of applicants.

When the Borrower chooses to receive applications by mail, applicants must be notified that applications must be post marked prior to the application deadline. When receiving applications via mail, the Borrower must allow 10 business days from the application deadline before scheduling the lottery to allow for mail delivery, to accommodate the deadline for delivery of the final application list to MOHCD (at least 5 business days prior to the lottery).

Lotteries are held in a public, accessible location. Applicants are invited to attend lotteries, but attendance is not mandatory.

Lotteries will be done electronically and applicant numbers will be randomly sorted by a software program for each preference category. The Borrower should use a computer and projector screen or individual laptops to display the results of each preference lottery and the general lottery.

The Borrower should record each name card/number ticket assigned a lottery number onto the applicant list template provided by MOHCD. Once the lottery preferences have been confirmed and applied, the Borrower must notify applicants of their position in the lottery if they were unable to attend by posting the results on the Borrower's website or another public site and/or by mail.

The Borrower should refer to the Housing Preferences and Procedures Manual, posted on MOHCD's website at www.sfmohcd.org to review additional details on the lottery process.

Post-Lottery Lease-up Instructions

The Borrower agrees to contact each applicant in lottery rank order to set up an interview where the Borrower will receive all necessary supporting documents from the applicant (i.e. income documentation, tax returns, and bank statements).

The Borrower agrees to income-qualify each household member based on the supporting documents submitted by the applicant. Income qualification cannot be based solely on what is reported by the applicant on the application.

The Borrower shall not use citizen status as a qualification for selection. The Borrower shall not ask for social security information prior determining the household's income eligibility.

The Borrower agrees to offer units in lottery-ranked order to applicants who meet all qualifications. If an applicant is still in the review process and the applicant behind them in lottery rank order has been approved, the first applicant must be offered a specific unit that is reserved for that applicant until all qualifications have been reviewed and approved.

In the case of an applicant being denied for housing and the applicant appeals the denial, the Borrower agrees to hold a comparable unit until the final decision has been made regarding the appeal. Should Borrower determine that an applicant's appeal to a denial will be denied, Borrower will inform MOHCD of this decision with documentation used to sustain the denial. MOHCD will confirm the denial is in accordance with Borrower's eligibility requirements, such confirmation will take no more than 7 business days.

If ineligibility is determined, the applicant will be notified in writing within one week after such determination is made, with a copy to MOHCD. These applicants will also appear on the status report.

Post-Lottery Status Report

Every seven (7) business days following any lottery the Borrower shall supply MOHCD with a lease up status report on a template provided by MOHCD. MOHCD has the right to audit the Borrower's lease up procedure and applicant files with 24-hour notice during the lease up period.

Response Deadline

Applicants who have been accepted and notified in writing by the Borrower shall have at least ten (10) calendar days thereafter to enter into a lease agreement. If the applicant fails to affirmatively respond, the application may be closed, making that unit available to the next eligible tenant. Written notice shall be provided to applicants whose applications are closed after 10 days due to a lack of response. Rejection of the unit by a COP or DTHP certificate holder and closed applications must be shown on the status report to MOHCD.

Final Documentation

Within fourteen (14) calendar days after execution of a lease, the Borrower shall supply MOHCD with a copy of a demographic report on all COP and DTHP applicants.

Retention Policy

For MOHCD auditing purposes, Borrower is required to keep all supporting documents for each applicant that has been interviewed for at least one year after the interview.

EXHIBIT K-1

Form of Early Outreach Plan for Initial Lease Up or Sale of Units (2016 edition) Projects Approved by the Mayor's Office of Housing and Community Development (MOHCD)

This plan is subject to MOHCD's review within 10 business days from the date it is received and complete. **Please set all dates in this plan so that no date commences sooner than 30 working days before the date of your plan submission.**

Please complete and return this form in computer "Microsoft Word" document format so that our office may track changes directly onto the document. The approval process typically involves a back-and-forth process between MOHCD and the developer's representative. Please do not submit incomplete plans. This plan may be updated from time to time at the discretion of MOHCD. Thank you.

I. General Information (*Suggestion: Cut and paste sections I - VIII from this form into your marketing plan. This is the exact information required to be included.*)

I/We agree that the goal of 455 Fell, L.P., a California limited partnership (the "Developer") is to ensure that all applicants are screened using consistently applied, fair criteria, to provide a desirable, well-maintained and affordable place to live for an economically, racially, and ethnically integrated resident population, while complying with the provisions of any federal, state, or local law prohibiting discrimination in housing on the basis of race, religion, sex, color, family status, disability status, national origin, marital status, ancestry, gender identity or sexual orientation, source of income, or HIV/AIDS status.

In order to inform the public, owners, and prospective tenants/buyers about federal fair housing laws and affirmative fair marketing procedures per the Regulatory Agreement and Declaration of Restrictive Covenants, dated October 1, 2017, between the City and County of San Francisco, California, _____ (the "Fiscal Agent"), and the Developer, the Developer will include the Equal Housing Opportunity logotype and/or slogan, and a logotype indicating accessibility to the disabled, in all press releases, solicitations, and program information materials.

Today's Date	
Proposed Outreach Launch Date (Must be no sooner than 30 days from the	

date of first submission)	
Name of Building	
Property Address (Street address used for marketing and mailing to new renters / buyers)	
Property Address as Stated in Planning Approval	
Planning Motion Number	
Notice of Special Restrictions Document #, Disposition and Development or Borrower Participation Agreement # or Loan Agreement #	
Name of City and Co. of SF Planner	

The following developer contact information for is for internal use only.

Name of Developer	
Developer Address	
Developer Phone	
Developer Email	

Name of Marketing Company	
Marketing Agent	
Marketing Agent Address	
Marketing Agent Phone	

Marketing Agent Email	
--------------------------	--

Date of Building Permit Issuance	
Expected Issuance Date of Temporary Certificate of Occupancy	
Expected Issuance Date of Final Certificate of Occupancy	
Date on Which You Expect Affordable Units to Begin Occupancy	
Date on Which You Expect All Affordable Units to Complete Occupancy	

The section below applies to rental projects only.

List all Sources of Government Financing for the Project (e.g. CDLAC, TCAC, HUD Loan, Infill Grant, etc.)	
If there is a source of government financing, how long and at what % Area Median Income must your units be restricted as rental units under this financing?	
Are your units condo mapped (i.e. subdivided) through the Department of Real Estate?	
Do you intend to convert to ownership	

units in the future? Please explain.	
---	--

II. Overall Building Composition

Total # Units in Building (including affordable)	
Number of Residential Floors in the Building	

III. Market Rate Units (if applicable)

Unit Type	Total #
SRO	
Studio	
Jr. 1 Bedroom	
1 Bedroom	
1+ Bedroom	
2 Bedroom	
2+ Bedroom	
3 Bedroom	
3+ Bedroom	
4 Bedroom	
Other	

IV. Affordable Units

Total # affordable (only) Units in Building	
---	--

AFFORDABLE UNITS BY BEDROOM SIZE

Unit Type	Total #	Minimum Household Occupancy Size	*Maximum Household Occupancy Size
SRO			
Studio			
Jr. 1 Bedroom			
1 Bedroom			
1+ Bedroom			
2 Bedroom			
2+ Bedroom			

3 Bedroom			
3+ Bedroom			
4 Bedroom			
Other			

*Please note that children under 6 years do not count toward household size.

DETAILED DESCRIPTION OF AFFORDABLE UNITS BY BEDROOM SIZE

Refer to Area Median Income Levels Set by MOHCD for Table Below.

Unit #	Bedroom Count	Bath Count	Square Feet	Unit Accessible/ Adaptable (including Visually or Hearing Impaired)	% Area Median Income Limit	For rent units: Min. Monthly Household Income Required (ex: 2 or 2.5 times rent)	For sale units: Min. Down payment Required (BMR program requires only 5%)

V. Renter / Buyer Outreach

I/We understand that it is our responsibility to read and understand the rules of the regulatory agreement(s) for this development as well as the marketing and outreach policies set forth by MOHCD.

At least 18 months prior to initiation of the affirmative marketing obligations or other public advertising and marketing of the Affordable Housing Units, (as the term is defined in the relevant development agreement(s)), Developer shall provide occupancy priority holders (based on a list developed by Developer and MOHCD) with advance notice (the "Advance Notice") that affordable and/or market rate housing opportunities in the Project will become available (the "Advance Notice Period"). This Advance Notice will include a description of the housing, income qualifications for tenancy or ownership and the name of Developer representative who can answer questions and provide additional information about the qualification process.

The outreach materials should include the following information as applicable:

1) Occupancy Preferences (Verify with MOHCD)

Preference will be given to:

Preference	Applicant Category
1	Persons Displaced by Project Activity
2	Certificate of Preference Holders: a. Western Addition b. Hunters Point c. Residential G
3	Ellis Act Housing Preference (EAHP) Holders or Displaced Tenant Housing Preference
4	San Francisco Residents or Workers
3	All Others

2) Area Median Income Levels (Verify with MOHCD)

[PLEASE INSERT THE INCOME LIMIT TABLE YOU WILL USE AND INSERT CURRENT INCOME LIMITS INTO THE TABLE BELOW]

_____ % of Maximum Income by Household Size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco 201 _____

- A one person household can make no more than \$ _____
 - A two person household can make no more than \$ _____
 - A three person household can make no more than \$ _____
 - A four person household can make no more than \$ _____
 - A five person household can make no more than \$ _____
 - A six person household can make no more than \$ _____
 - A seven person household can make no more than \$ _____
- (Please visit www.sfmohcd.org for larger households.)

3) Description of the Project

- A description of the total number of Affordable Units in the Project;
- A description of the building amenities;
- List of organizations and/or workshop dates to assist prospective applicants;
- Anticipated occupancy date

COP Postcard Template

Coming Soon!

Affordable Homes for Rent or Sale in San Francisco

Exterior Photo	Interior Photo

2 two-bedroom + 3 three-bedroom rental or ownership units available at Lakeside Village, 1125 Laurel Court, San Francisco, CA 94124

- New Units with Modern Design + Amenities coming Summer, Spring, Fall, Winter YEAR
- (5) Affordable units available to households at XX% of median income
- Renter or Buyer households must earn no more than the income levels listed below:

Side Two:

All applicants are encouraged to apply. Lottery preference will be given to Certificate of Preference and Ellis Act Housing Preference holders* and households that live or work in San Francisco.

**Certificate of Preference holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's, but may also include other persons displaced by Agency action. Ellis Act Housing Preference holders are long term San Francisco tenants who were evicted because of the Ellis Act. Contact 415-701-5613 for more information.*



INSERT YOUR ACCESS TO HOUSING PROVIDER INFORMATION HERE (NAME, ADDRESS, AND PHONE NUMBER)

PLEASE INCLUDE UPCOMING DATES OF THEIR RENTAL OR OWNERSHIP COUNSELING WORKSHOPS & A LINK TO THEIR WEBSITE

Please visit www.yourwebsite.com for a list of upcoming owner counseling workshops. You can also contact Smith Advisors at [\[phone and email contact info\]](#) for more information on the units.

Units are monitored through the San Francisco Mayor's Office of Housing and Community Development and are subject to monitoring and other restrictions. Visit www.sfmohcd.org for program information.

VI. Marketing Strategy

Beginning in the early outreach period and through the lease up or sale of BMR units the Developer is required to work with a qualified organization and/or consultant to assist with counseling:

The scope of work should include the services below:

Rental Scope of Work:

To provide comprehensive outreach and marketing services integrating with education, individualized support, group workshops, and peer-support counseling to ensure candidates have the opportunity to apply to and secure housing.

List of services include:

- Outreach and affirmative marketing with an emphasis on Certificate of Preference holders
- Housing placement
- Budgeting and Asset Building
- Credit counseling which should address any credit issues
- Housing education
- One on one follow ups

- Tenant counseling
- Financial education including credit building techniques
- Rental application assistance and preparation
- Eviction prevention
- Workshops for application process, income eligibility, down payment requirements, credit checks, etc.
- Workshop for COP holders
- Housing rights
- Fair housing rights
- Landlord/ tenant relations and issues

Please provide any additional scope or recommendations that will help find and prepare prospective residents.

Qualified Consultant Organizations

SF LGBT Community Center (415) 865-5555

Veteran's Equity Center (415) 255-2347

Mission Economic Development Agency (415) 282-3334

Consumer Credit Counseling of San Francisco (800) 777-7526

Asian, Inc. (415) 928-5910

San Francisco Housing Development Corporation (415) 822-1022

Borrowership Scope of Work:

To provide comprehensive outreach and marketing services integrating with education, individualized support, group workshops, and peer-support counseling to ensure candidates have the opportunity to apply to and secure housing.

List of services include:

- Outreach and affirmative marketing with an emphasis on Certificate of Preference holders
- Individual pre-purchase counseling housing workshops
- One on one follow ups
- Budgeting and Asset Building
- Financial education including credit building techniques
- Credit counseling which should address any credit issues
- Homebuyer application assistance and preparation
- Workshops for application process, income eligibility, down payment requirements, credit checks, etc.

- Housing rights
- Fair housing rights

Please provide any additional scope or recommendations that will help find and prepare prospective residents.

www.homeownershipsf.org or (415) 202-5464

Outreach Materials (i.e. post cards)

I/We understand that our project must provide a post card **as a part of this submission** for the AFFORDABLE units available that includes the following information. (Please see sample template at the end of this document for a template.)

- Certificate of Preference and Ellis Act Housing Preference indication (if applicable)
- Maximum and minimum qualifying incomes
- Rental or Homeownership Affordability Levels
- Rent levels
- Description of units
- Exterior and interior photo of the development
- Information on information sessions
- Information on how to obtain an application
- Fair Housing logo
- Equal Opportunity logo
- Your website

Outreach to Certificate of Preference Holders

I/We understand that we are responsible for marketing our Affordable Rental or Homeownership units to Certificate of Preference holders. Certificate of Preference holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's, but may also include other persons displaced by Agency action. For more information, applicants may contact 415-701-5613.

I/We understand that I/we shall provide post cards for the mailing of an affordable housing announcement to all Certificate of Preference holders. We are responsible for printing the post cards using the information provided by MOHCD. MOHCD shall coordinate the mailing and invoice the developer for the full cost of the first class mailing, including postage and labels.

VII. Application/Selection Process and Timeline

I have read the City and County of San Francisco’s Operational Rules for San Francisco Housing Lotteries and Rental Lease-up Activities (Exhibit S) and understand the application, selection, preparation and review and Lottery process.

[Please complete the following timeline as part of your Plan]

Timeline of Entire Process (add info as needed)

TASK	TIME FRAME	DATE
MOHCD provides developer with: <ul style="list-style-type: none"> • Early Outreach Plan and Marketing Plan (which includes Tenant Selection Criteria) (“Plans”) template • Fair Chance Ordinance link on HRC website • Operational Rules for Lotteries & Lease Up (another exhibit of the DDA or Loan Agreement or other relevant document) • Link to list of rental readiness service providers who can assist potential applicants or Homeownership SF if for-sale project 	Developer will have template prior to or by construction commencement. Developer must submit <i>draft</i> Early Outreach and Marketing Plans 30 days after construction commencement.	
Developer provides MOHCD with the Early Outreach Plan	At least 1 month after construction commencement	
MOHCD reviews Outreach Plan for accurate project information, partnering with a community outreach organization, and consistency with template.	MOHCD will provide approval no later than 10 business days after final draft is received.	
MOHCD reviews and approves Outreach Plan	Approval is provided within 5 business days.	
Early Outreach begins: <ul style="list-style-type: none"> • MOHCD monitors developer’s progress on Early Outreach timeline and activities • Developer submits monthly reports on Early Outreach activities to MOHCD 		

Developer provides MOHCD with Early Outreach marketing materials and MOHCD does 1 st of 5 COP mailings	3 months after construction commencement	
Developer submits refined draft Marketing Plan. Upon receipt of draft Marketing Plan, MOHCD notifies its agent, if any, that the tenant selection and marketing plans are forthcoming. (If no agent represents MOHCD proceed to next task below.)	12-months prior to the anticipated Temporary Certificate of Occupancy ("TCO").	
MOHCD reviews Plan for consistency with development agreements (loan agreements, VDDAs, DDAs, OPA/DDAs), including appropriate rent ranges, AMIs and occupancy preferences, engages with developer if any discrepancies, and confirms with its agent, if any, first draft of plan is consistent with applicable agreement, and sends to its agent, if any.	Within 30 days of receipt of plan (no later than 45 days after receipt of draft plan) MOHCD sends to plan to MOHCD	
MOHCD meet with leasing agent and Access to Housing Partner to go over all marketing, lease-up & lottery processes	After draft Marketing Plan(with the Tenant Selection Criteria) are approved and before marketing plan is finalized and approved	
MOHCD approves revised draft Plans & transmits Marketing Plan approval to developer	Within 60 days after the receipt of the Marketing Plan	
Developer provides MOHCD with marketing materials and MOHCD does 2 nd of 5 COP mailings	12 months before TCO completion	
Developer provides MOHCD with marketing materials and does 3 rd of 5 COP mailings	10 months before TCO	
Developer provides MOHCD with marketing materials and MOHCD does 4 th of 5 COP mailings	8 months before TCO	
MOHCD requests any/all Plan updates from developer with finalized dates and actual pricing	7 months before lease up/sales	
Developer submits final plan and COP postcard to MOHCD <ul style="list-style-type: none"> • MOHCD does 5th of 5 COP mailings • Notice of Application Workshops • Includes contact information for support staff (MOHCD) available to COP holders 	30 day period, 6 months sales	
For projects where lease-up begin between Jan-May: If a new AMI has been published since the first draft of the Marketing Plan was created, then MOHCD will determine if the new AMI & Rent limits should be used in the final version of the marketing Plan. Alert MOHCD if the AMI numbers are revised.	Same 30 day period as above	
Developer sends advertisements to MOHCD for review and approval	Same 30 day period as above	
MOHCD considers final Marketing Plan with advertisements for approval	Same 30 day period as above	
Marketing Period begins. MOHCD does COP mailing and posts to website, housing alert system; Front Desk	90 days before sales	

Marketing period	28 days (rent) / 45 days (homeownership)	
Developer provides MOHCD with applicant lists on a weekly basis. MOHCD confirms EAHP & COP	Weekly during marketing period	
MOHCD attends a specialized rental readiness workshop session for COP holders)	When scheduled	
MOHCD fields consumer complaints and works with leasing agent to address pre-lottery issues	As needed	
Developer provides COP Outreach Obligation report to MOHCD Commission	Prior to lottery	
Developer provides MOHCD with final list of applications that are assigned lottery numbers	One week before lottery date	
Lottery – MOHCD assists developer	Four weeks after marketing period ends	
Developer provides MOHCD with final lottery lists that have been reconciled with the applicant list	ASAP after lottery	
Developer will submit lottery list to MOHCD who will confirm the list within 7 business days.		
Lease-up / Sales begin <ul style="list-style-type: none"> The appeals process needs to be included on the application, next to the signature line and in every denial letter sent to applicants 		
Developer submits weekly sales or lease up reports to MOHCD using spreadsheet provided by MOHCD	Weekly during unit lease-up / sales	
If applicant files an appeal: <ul style="list-style-type: none"> Developer tracks the appeal on weekly lease-up/sales list Developer hears the appeal Before 2nd denial is sent MOHCD needs to review file 		
MOHCD reviews all denials and confirms Developer is correct in calculations and following marketing procedures		
MOHCD addresses lease-up / sales issues with Developer		
MOHCD addresses lease-up / sales issues with consumers and hears denial appeals after initial review by MOHCD		
Developer provides MOHCD with a clean copy of the Final Waitlist		

VIII. Document Review

I/We certify that I/we and all agents involved in the process of renting affordable units have read Exhibit L.

Representative (sign) _____

Representative (print)

Title (print)

Company (print)

Date
(print)

EXHIBIT K-2
Early Outreach and Marketing Responsibilities and Timeline

EXHIBIT K-3
Early Outreach and Marketing Responsibilities and Timeline

TASK	TIME FRAME
MOHCD provides developer with: <ul style="list-style-type: none"> • Early Outreach Plan and Marketing Plan (which includes Tenant Selection Criteria) (“Plans”) template • Operational Rules for Lotteries & Lease Up (another exhibit) • Link to list of rental readiness service providers who can assist potential applicants or Homeownership SF if for-sale project 	Developer will have template prior to or by construction commencement. Developer must submit <i>draft</i> Early Outreach and Marketing Plans 30 days after construction commencement.
Developer provides MOHCD with the Early Outreach Plan	At least 1 month after construction commencement
MOHCD reviews Outreach Plan for accurate project information, partnering with a community outreach organization, and consistency with template.	MOHCD will provide approval no later than 10 business days after final draft is received.
MOHCD reviews and approves Outreach Plan	Approval is provided within 5 business days.
Early Outreach begins: <ul style="list-style-type: none"> • MOHCD monitors developer’s progress on Early Outreach timeline and activities • Developer submits monthly reports on Early Outreach activities to MOHCD 	
Developer provides MOHCD with Early Outreach marketing materials and MOHCD does 1 st of 5 COP mailings	3 months after construction commencement
Developer submits refined draft Marketing Plan. Upon receipt of draft Marketing Plan, MOHCD notifies its agent, if any, that the tenant selection and marketing plans are forthcoming. (If no agent represents MOHCD proceed to next task below.)	12-months prior to the anticipated Temporary Certificate of Occupancy (“TCO”).
MOHCD reviews Plan for consistency with development agreements (loan agreements, VDDAs, DDAs, OPA/DDAs), including appropriate rent ranges, AMIs and occupancy preferences, engages with developer if any discrepancies, and confirms with its agent, if any, first draft of plan is consistent with applicable agreement, and sends to its agent, if any.	
MOHCD meets with leasing agent and Access to Housing Partner to go over all marketing, lease-up & lottery processes	After draft Marketing Plan(with the Tenant Selection Criteria) are approved and before marketing plan is finalized and approved
MOHCD approves revised draft Plans & transmits Marketing Plan approval to developer	Within 60 days after the receipt of the Marketing Plan
Developer provides MOHCD with marketing materials and MOHCD does 2 nd of 5 COP mailings	12 months before TCO completion
Developer provides MOHCD with marketing materials and MOHCD does 3 rd of 5 COP mailings	10 months before TCO
Developer provides MOHCD with marketing materials and MOHCD does 4 th of 5 COP mailings	8 months before TCO

MOHCD requests any/all Plan updates from developer with finalized dates and actual pricing	7 months before lease up/sales
Developer submits final plan and COP postcard to MOHCD and/or its agent <ul style="list-style-type: none"> • MOHCD does 5th of 5 COP mailings • Notice of Application Workshops • Includes contact information for support staff (MOHCD) available to COP holders 	30 day period, 6 months sales
For projects where lease-up begin between Jan-May: If a new AMI has been published since the first draft of the Marketing Plan was created, then MOHCD will determine if the new AMI & Rent limits should be used in the final version of the marketing Plan. Alert MOHCD if the AMI numbers are revised.	Same 30 day period as above
Developer sends advertisements to MOHCD for review and approval	Same 30 day period as above
MOHCD considers final Marketing Plan with advertisements for approval	Same 30 day period as above
Marketing Period begins. MOHCD does COP mailing and posts to website, housing alert system; Front Desk	90 days before sales
Marketing period	28 days (rent) / 45 days (homeownership)
Developer provides MOHCD with applicant lists on a weekly basis. MOHCD confirms EAHP & COP	Weekly during marketing period
MOHCD attends a specialized rental readiness workshop session for COP holders)	When scheduled
MOHCD fields consumer complaints and works with leasing agent to address pre-lottery issues	As needed
Developer provides COP Outreach Obligation report to MOHCD Commission	Prior to lottery
Developer provides MOHCD with final list of applications that are assigned lottery numbers	One week before lottery date
Lottery – MOHCD assists developer	Two weeks after marketing period ends
Developer provides MOHCD with final lottery lists that have been reconciled with the applicant list	ASAP after lottery
Developer will submit lottery list to MOHCD who will confirm the list within 7 business days.	
Lease-up / Sales begin <ul style="list-style-type: none"> • The appeals process needs to be included on the application, next to the signature line and in every denial letter sent to applicants 	
Developer submits weekly sales reports to MOHCD using spreadsheet provided by MOHCD	Weekly during unit lease-up / sales
If applicant files an appeal: <ul style="list-style-type: none"> • Developer tracks the appeal on weekly lease-up/sales list • Developer hears the appeal 	

<ul style="list-style-type: none"> • Before 2nd denial is sent MOHCD needs to review file 	
MOHCD reviews all denials and confirms Developer is correct in calculations and following marketing procedures	
MOHCD's agent, if any, alerts MOHCD to problems/concerns with lease-up. (If no agent represents MOHCD proceed to next step below.)	
MOHCD addresses lease-up / sales issues with Developer	
MOHCD addresses lease-up / sales issues with consumers and hears denial appeals after initial review by MOHCD and/or its agent	
Developer provides MOHCD with a clean copy of the Final Waitlist	

SAN FRANCISCO EXAMINER

This space for filing stamp only

835 MARKET ST, SAN FRANCISCO, CA 94103
Telephone (415) 314-1835 / Fax (510) 743-4178

ADAM CRAY
CCSF MAYOR'S OFFICE OF HOUSING
ONE SOUTH VAN NESS AVE 5TH FLR
SAN FRANCISCO, CA - 94103-5416

EXM#: 3030755

PROOF OF PUBLICATION

(2015.5 C.C.P.)

State of California)
County of SAN FRANCISCO) ss

Notice Type: GPN - GOVT PUBLIC NOTICE

Ad Description:

TEFRA AD; Parcel O

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SAN FRANCISCO EXAMINER, a newspaper published in the English language in the city of SAN FRANCISCO, county of SAN FRANCISCO, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of SAN FRANCISCO, State of California, under date 10/18/1951, Case No. 410667. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

07/14/2017

Executed on: 07/14/2017
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



Signature

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that on Monday, August 7, 2017 at 11:00 a.m. in the Mayor's Office of Housing and Community Development, 1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, the City and County of San Francisco (the "City") will conduct a public hearing (the "Public Hearing") at which time the City will hear and consider information concerning the proposed sale and issuance by the City of multifamily affordable housing mortgage revenue bonds (the "Bonds") in an aggregate principal amount not to exceed fifty million dollars (\$50,000,000). The proceeds of the Bonds will be loaned to 455 Fell, L.P. (or an affiliate thereof or successor thereto) (the "Borrower"), pursuant to a loan agreement (the "Loan Agreement"). The proceeds of the Bonds loaned to the Borrower will be used to finance the construction of approximately 108 units of residential rental housing located at 455 Fell Street, San Francisco, California 94102 (Block 0831, Lot 024 in the records of the City's Assessor-Recorder) (the "Project"). The Project will be owned and operated by the Borrower.

The Bonds will be paid entirely by the Borrower from the revenues of the Project, in accordance with the Loan Agreement. Neither the full faith and credit nor the taxing power of the City, the State of California (the "State") or any other political corporation, subdivision or agency of the State is pledged to the payment of the principal, premium, if any, or interest on the Bonds, nor shall the City, the State or any other political corporation, subdivision or agency of the State be liable or obligated to pay the principal, premium, if any, or interest on the Bonds.

The Public Hearing is intended to comply with the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

All those interested in matters related to the issuance of the Bonds and to the financing of the Project are invited to attend and be heard at this hearing. Interested parties may appear in person at the time and place indicated above or submit written comments,

which must be received prior to the Public Hearing, to the City, c/o Adam Cray, Mayor's Office of Housing and Community Development, at the address indicated above. Date: July 14, 2017

CITY AND COUNTY OF SAN FRANCISCO
Kate Hartley, Acting Director
Mayor's Office of Housing and Community Development



Email

* A 0 0 0 0 0 4 5 0 0 5 0 0 *

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 JUL 25 PM 2:33

Time stamp
or meeting date

BY B

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

President London N. Breed

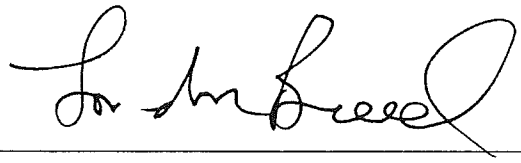
Subject:

[Multifamily Housing Revenue Note - 455 Fell Street ("455 Fell Street Apartments") - Not to Exceed \$43,000,000]

The text is listed below or attached:

Resolution authorizing the execution and delivery of a multifamily housing revenue note in one or more series in an aggregate principal amount not to exceed \$43,000,000 for the purpose of providing financing for the acquisition and construction of a 108-unit multifamily rental housing project known as "455 Fell Street Apartments"; approving the form of and authorizing the execution of a funding loan agreement providing the terms and conditions of the loan from the funding lender to the City and the execution and delivery of the note; approving the form of and authorizing the execution of a borrower loan agreement providing the terms and conditions of the loan from the City to the borrower; approving the form of and authorizing the execution of a regulatory agreement and declaration of restrictive covenants; authorizing the collection of certain fees; approving modifications, changes and additions to the documents; ratifying and approving any action heretofore taken in connection with the back-to-back loans, the note and the project; granting general authority to City officials to take actions necessary to implement this Resolution; and related matters.

Signature of Sponsoring Supervisor: _____

A handwritten signature in black ink, appearing to read "L. M. [unclear]", written over a horizontal line.

For Clerk's Use Only:

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s):	City elective office(s) held:
Members, Board of Supervisors	Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: 455 FELL LP, a California limited partnership	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
Information regarding Mercy Housing Calwest, managing general partner of 455 Fell LP, a California limited partnership: (1) Valerie Agostino, Vice President; Melissa Clayton, Vice President; Stephen Daues, Vice President; Jennifer Dolin, Vice President; Jane Graf, Vice President; Barbara Gualco, Vice President; Ed Holder, Vice President; Sheela Jivan, Vice President; Bruce Saab, Vice President; Steve Spears, Vice President; Joe Rosenblum, Secretary; Amy Bayley, Assistant Secretary (2) Doug Shoemaker, President; Vince Dodds, Treasurer (3) N.A. (4) N.A. (5) N.A.	
Contractor address: Mercy Housing California, 1360 Mission Street, Suite 300 SF, CA 94103	
Date that contract was approved:	Amount of contract: \$43,000,000
Describe the nature of the contract that was approved: Issuance of tax-exempt private activity bonds related to the construction of a 108-unit multifamily affordable rental housing project at 455 Fell Street, San Francisco, CA	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: **San Francisco Board of Supervisors**

Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

