
LOAN AGREEMENT

by and between the

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

and

**EDDY & TAYLOR ASSOCIATES, L.P.,
a California limited partnership**

dated as of June 1, 2017

relating to:

[\$_____]

**City and County of San Francisco, California
Multifamily Housing Revenue Bonds
(Eddy and Taylor Family Housing)
Series 2017A**

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LOAN AGREEMENT

THIS LOAN AGREEMENT (as supplemented and amended from time to time, the “Loan Agreement”), dated as of June 1, 2017, is by and between the City and County of San Francisco, California, a municipal corporation duly organized and existing pursuant to its charter and the laws and constitution of the State of California (the “City”), and Eddy & Taylor Associates, L.P., a California limited partnership (the “Borrower”).

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

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1. Definitions. Capitalized terms used in this Loan Agreement and not otherwise defined herein have the meanings given to such terms in the Indenture of Trust, dated as of June 1, 2017, between the City and Zions Bank, a division of ZB, National Association, as trustee. In addition, the following capitalized terms as used in this Loan Agreement have the following meanings unless the context or use otherwise requires:

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Borrower, or any guarantor of the Borrower, under any applicable bankruptcy, insolvency or similar law now or hereafter in effect.

“Adjusted Income” has the meaning given to such term in the Regulatory Agreement.

“Affiliated Party” has the meaning given to such term in the Regulatory Agreement.

“Area” has the meaning given to such term in the Regulatory Agreement.

“Area Median Gross Income” has the meaning given to the term “Median Income for the Area” in the Regulatory Agreement.

“Certificate of Continuing Program Compliance” means the document in the form attached to the Regulatory Agreement as Exhibit D.

“County” means the City and County of San Francisco, California.

“Event of Default” means any of the events described as an event of default in Section 7.1 hereof.

“Inducement Date” has the meaning given to such term in the Regulatory Agreement.

“Issuance Costs” has the meaning given to the term in the Indenture.

“Loan” means the mortgage loan originated hereunder by the City to the Borrower in an amount up to [_____] Dollars (\$[_____]), for the purpose of financing the development and construction by the Borrower of the Project.

“Loan Agreement” means this Loan Agreement, as amended and supplemented from time to time in accordance with the terms of this Loan Agreement.

“Loan Documents” means this Loan Agreement, the [Construction Disbursement Agreement], the Indenture, the Regulatory Agreement, the Note, the Deed of Trust and any other documents that are “Loan Documents” as such term is defined in the Construction Disbursement Agreement.

“Low Income Tenants” has the meaning given to such term in each Regulatory Agreement.

“Project Costs” has the meaning given to such term in the Regulatory Agreement.

“Qualified Project Costs” has the meaning given to such term in the Regulatory Agreement.

“Qualified Project Period” has the meaning given to such term in the Regulatory Agreement.

“State” means the State of California.

“Very Low Income Tenants” has the meaning given to such term in each Regulatory Agreement.

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

Section 1.3. Recitals, Titles and Headings. The terms and phrases used in the recitals of this Loan Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all such terms and phrases for purposes of this Loan Agreement shall be determined by references to Section 1.1 hereof. The titles and headings of the articles and sections of this Loan Agreement have been inserted for convenience of reference only and are not to be considered a part hereof, and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Loan Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City represents, warrants and covenants that:

(a) The City is a municipal corporation, duly organized and validly existing under its charter the constitution and laws of the State. Under the provisions of the Act, the City has the power to enter into the transactions on its part contemplated by this Loan

Agreement, the Indenture and the Regulatory Agreement (collectively, the “City Documents”) and to carry out its obligations hereunder and thereunder. The financing of the Project constitutes and will constitute a permissible public purpose under the Act. By proper action, the City has authorized the execution, delivery and due performance of its obligations under the City Documents.

(b) Neither the execution and delivery of the Bonds and the City Documents, nor the City’s compliance with the terms, conditions or provisions on the part of the City in the Bonds and the City Documents, to the knowledge of the City without investigation, conflicts in any material respect with or results in a material breach of any of the terms, conditions or provisions of the constitution or any statute of the State, or of any agreement, instrument, judgment, order or decree to which the City is now a party or by which it is bound or constitutes a material default by the City under any of the foregoing.

(c) The City has not created and will not create any debt, lien or charge upon the asset and monies explicitly pledged to the repayment of the Bonds under the Indenture, and has not made and will not make any pledge or assignment of or create any encumbrance thereon, other than the pledge and assignment thereof under the Indenture.

(d) The City has complied and will comply with all material provisions of the Act to be complied with by the City applicable to the Bonds and the transactions contemplated by this Loan Agreement and the other City Documents.

(e) The Bonds are being issued under the Indenture, and are secured by the Indenture pursuant to which the City’s interest in this Loan Agreement (other than the Reserved Rights) is pledged and assigned to the Trustee. The City covenants that it has not pledged and will not pledge or assign its interest in this Loan Agreement other than to the Trustee under the Indenture.

(f) No litigation or administrative action of any nature has been served on the City and is now pending (i) seeking to restrain or enjoin the execution and delivery of the Indenture, this Loan Agreement or the Regulatory Agreement, or in any manner questioning the proceedings or authority of the City relating thereto or otherwise affecting the validity of the Bonds, or (ii) challenging the existence or authority of the City or that of the members of the Board of Supervisors or its officers and, to the knowledge of the City, none of the foregoing are threatened.

The City makes no representation or warranty that the Project will be adequate or sufficient for the purposes of the Borrower. Nothing in this Loan Agreement shall be construed as requiring the Authority to provide any financing for the Project other than the proceeds of the Bonds.

Section 2.2. Representations, Warranties and Covenants of the Borrower. The Borrower represents, warrants and covenants that:

(a) The Borrower is a California limited partnership, organized and existing under the laws of the State, is in good standing in the State, and has full legal right, power and authority under the laws of the United States of America and the State (i) to enter into this Loan Agreement and the other Loan Documents to which it is a party; (ii) to perform its obligations hereunder and thereunder; and (iii) to consummate the transactions on its part contemplated by the Loan Documents.

(b) Upon the execution and delivery thereof by the parties thereto, each of the Loan Documents to which it is a party will constitute valid and binding obligations of the Borrower, enforceable upon the Borrower in accordance with its respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws or judicial decisions affecting creditors' rights generally and by judicial discretion in the exercise of equitable remedies.

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

(d) There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency or public board or body pending or threatened against the Borrower which (i) affects or seeks to prohibit, restrain or enjoin the loaning of the amounts set forth herein to the Borrower or the execution and delivery of this Loan Agreement or the other Loan Documents, (ii) affects or questions the validity or enforceability of this Loan Agreement or the other Loan Documents, (iii) questions the power or authority of the Borrower to carry out the transactions on its part contemplated by, or to perform its obligations under, this Loan Agreement and the other Loan Documents to which it is a party, or the powers of the Borrower to own, construct, equip or operate the Project.

(e) The Borrower is not in default under any document, instrument or commitment to which the Borrower is a party or to which it or any of its property is subject which default would or could affect the ability of the Borrower to carry out its obligations under this Loan Agreement and the other Loan Documents.

(f) Any certificate signed by an Authorized Borrower Representative and delivered pursuant to this Loan Agreement or the other Loan Documents shall be deemed a representation and warranty by the Borrower as to the statements made therein.

(g) The Project is located wholly within the City.

(h) The Borrower will obtain all necessary certificates, approvals, permits and authorizations with respect to the construction and operation of the Project from applicable local governmental agencies and agencies of the State and the federal government.

(i) The construction and operation of the Project in the manner presently contemplated and as described herein, in the Construction Disbursement Agreement and in the Regulatory Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Borrower will cause the Project to be operated in all material respects in accordance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(j) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the Project; that it is familiar with the provisions of all of the

documents and instruments relating to the financing of the Project to which it is a party; that it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project; and that it has not relied on the City for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the City in any manner except to issue the Bonds in order to provide funds to make the Loan.

(k) The Borrower intends to hold the Project for its own account, has no current plans to sell and has not entered into any agreement to sell any of the units that comprise the Project. It is hereby acknowledged, however, that the Borrower's partnership agreement does refer to certain rights of one or more of its partners to acquire the Project, and for the possible acquisition of the Project following the fifteen year tax credit compliance period as referenced in the Borrower's partnership agreement, and those provisions shall not result in a breach of this Section 2.2(k).

(l) In the event the Loan proceeds are not sufficient to complete the construction and equipping of the Project and the payment of all Issuance Costs, the Borrower will furnish any additional moneys necessary to complete the acquisition, construction and equipping of the Project and pay all Issuance Costs.

(m) The estimated total cost of the financing of the construction of the Project is equal to or in excess of the principal amount of the Loan.

Section 2.3. Hazardous Waste Covenant. In addition to and without limitation of any other representations, warranties and covenants made by the Borrower under this Loan Agreement and under the other Loan Documents, the Borrower further represents, warrants and covenants that the Borrower will not use or permit Hazardous Materials (as defined hereinafter) on, from, or affecting the Project (a) in any manner which violates federal, state or local laws, ordinances, rules, or regulations governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, or (b) in a manner that would create a material adverse effect on the Project. Without limiting the foregoing, the Borrower shall not cause or permit the Project or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations, nor shall the Borrower cause or knowingly permit, as a result of any intentional or unintentional act or omission on the part of the Borrower or any tenant or subtenant, a release of Hazardous Materials on to the Project or on to any other property in a manner which violates federal, state, or local laws, ordinances, rules or regulations or in a manner that would create a material adverse effect on the Project. The Borrower shall comply with and require compliance by all tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, and shall obtain and comply with, and require that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Borrower shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other action required by a governmental authority under an applicable statute or regulation to clean up and remove all Hazardous Materials, on, from, or affecting the Project in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations.

The Borrower shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, release, or threatened release of any Hazardous Materials

which are on or from the Project which affect, the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on or from the Project, and/or (c) any violation of laws, orders, regulations, requirements or demands of government authorities, or written requirements of the City, which are based upon or in any way related to such Hazardous Materials including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event the Project is foreclosed upon, or a deed in lieu of foreclosure is tendered, or this Loan Agreement is terminated, the Borrower shall deliver the Project in a manner and condition that shall conform with all applicable federal, state and local laws, ordinances, rules or regulations affecting the Project.

For the purposes of this Section 2.3 and Section 2.4, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 9601 et seq.), and in the regulations promulgated pursuant thereto, or any other federal, state or local environmental laws, ordinances, rules, or regulations. The provisions of this Section 2.3: (a) shall not apply to substances routinely used in the ordinary course of business, (b) shall be in addition to any and all other obligations and liabilities the Borrower may have to the City at common law, and (c) with respect to any liability or cost arising as a result of acts or omissions of the Borrower during the term of this Loan Agreement, shall survive the termination of this Loan Agreement. This Section 2.3 shall not obligate the Borrower in any way with respect to any acts or omissions of any entity that succeeds the Borrower as owner of the Project.

The indemnifications and protections set forth in this Section 2.3 (i) shall be extended, with respect to the City, to the members of its Board of Supervisors, officers, employees, agents and servants and persons under the City's control or supervision, and (ii) shall be for the full and equal benefit of the Trustee, as assignee of the City under the Indenture.

Anything to the contrary in this Loan Agreement notwithstanding, the covenants of the Borrower contained in this Section 2.3 shall remain in full force and effect after the termination of this Loan Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought, and (ii) payment in full or the satisfaction of such claim or cause of action and of all expense and charges incurred by the City relating to the enforcement of the provisions herein specified.

For the purposes of this Section 2.3, the Borrower shall not be deemed an employee, agent or servant of the City or person under City's control or supervision.

Section 2.4. Additional Environmental Matters. (a) The Borrower shall require in any management agreement for the Project that the management company shall operate and maintain the Project in material compliance with all applicable federal, state, regional, county or local laws, statutes, rules, regulations or ordinances, concerning the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 9601 et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. Section 6901 et seq., the Emergency Planning and Community Right-to-Know Act of

1986, 42 U.S.C. Section 11001 et seq., and the Clean Air Act of 1970, 42 U.S.C. Section 4321, and all rules, regulations and guidance documents promulgated or published thereunder, and any state, regional, county or local statute, law, rule, regulation or ordinance relating (i) to releases, discharges, emissions or disposal of Hazardous Materials to air, water, land or ground water, (ii) to the withdrawal or use of ground water, (iii) to the use, handling or disposal or polychlorinated biphenyls ("PCBs"), asbestos or urea formaldehyde, (iv) to the treatment, storage, disposal or management of hazardous substances (including, without limitation, petroleum, its derivatives, crude oil or any fraction thereof) and any other solid, liquid or gaseous substance, exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the health and safety of the occupants of the Project or the property adjacent to or surrounding the Project, (v) to the exposure of persons to toxic, hazardous or other controlled, prohibited or regulated substances or (vi) to the transportation, storage, disposal, management or release of gaseous or liquid substances and any regulation, order, injunction, judgment, declaration, notice or demand issued thereunder.

(b) The Borrower shall keep the Project free and clear of any liens or encumbrances securing payment of the costs of any response, removal or remedial action or cleanup of Hazardous Materials (as defined in Section 2.3).

(c) The Borrower covenants and agrees that it will not knowingly conduct or allow to be conducted any business, operations or activity on the Project, or employ or use the Project to manufacture, treat, store (except with respect to storage in the ordinary operation of the Project), or dispose of any Hazardous Materials (including, without limitation, petroleum, its derivatives, crude oil or any fraction thereof), or any other substance the disposal of which is prohibited, controlled or regulated under applicable law, or which poses a threat or nuisance to safety, health or the environment, including, without limitation, any business, operation or activity which would violate the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. Section 6901 et seq., or cause or knowingly allow to be caused, a release or threat of release, of a non-diminimis quantity of hazardous substances on the Project as defined by, and within the ambit of, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 9601 et seq., or any similar state, county, regional or local statute providing for financial responsibility for cleanup for the release or threatened release of substances provided for thereunder.

(d) The Borrower covenants and agrees that it shall take all appropriate response action, including any removal and remedial action, in the event of a release, emission, discharge or disposal of Hazardous Materials in, on, under or about the Project for which the Borrower is liable under state, federal or local environmental rules or regulations.

(e) The Borrower shall, as soon as practicable and in any event within 15 days of its receipt thereof, notify the City and the Bondowner of any notice, letter, citation, order, warning, complaint, claim or demand that (i) the Borrower or any tenant has violated, or is about to violate, any federal, state, regional, county or local environmental, health or safety statute, law, rule, regulation, ordinance, judgment or order; (ii) there has been a release, or there is a threat of release, of Hazardous Materials (including, without limitation, petroleum, its derivatives, crude oil or any fraction thereof) from the Project; (iii) the Borrower or any tenant may be or is liable, in whole or in part, for the costs of cleaning up, remediating, removing or responding to a release of Hazardous Materials (including, without limitation, petroleum, its derivatives, crude oil or any fraction thereof); or (iv) the Project is subject to a lien in favor of any governmental entity for any environmental law, rule or regulation arising from or costs incurred by such governmental entity

in response to a release of a Hazardous Materials (including, without limitation, petroleum, its derivatives, crude oil or any fraction thereof).

(f) During the period in which this Loan Agreement is in effect, the Borrower hereby grants the City and the Trustee, and their respective agents, attorneys, employees, consultants and contractors, an irrevocable license and authorization upon reasonable notice of not less than 24 hours to enter upon and inspect the Project and perform such tests, including, without limitation, subsurface testing, soils and ground water testing, and other tests which may physically invade the Project, as the City or the Trustee, in their respective reasonable discretion, determine are necessary to protect the lien created by the Deed of Trust. The provisions of this Section 2.4 shall be for the full and equal benefit of the City, and of the Trustee as assignee of the City under the Indenture.

ARTICLE III

THE LOAN

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

(a) the City shall have received an original executed counterpart of this Loan Agreement, the Note, the Tax Certificate, the Regulatory Agreement and the Deed of Trust, together with evidence satisfactory to the City of the recordation of the Regulatory Agreement and the Deed of Trust in the official records of the County Recorder of the County, which may be by telephonic notice from a title company (or that such documents have been delivered to an authorized agent of the title company for recordation under binding recording instructions from Bondowner's counsel or such other counsel as may be acceptable to the City and Bondowner);

(b) no Event of Default nor any event which with the passage of time and/or the giving of notice would constitute an Event of Default under this Loan Agreement shall have occurred and the Borrower shall have so certified in writing;

(c) all legal matters incident to the transactions contemplated by this Loan Agreement shall be concluded to the reasonable satisfaction of counsel to the City;

(d) counsel to the Borrower shall have delivered an opinion in form satisfactory to counsel to the City, Bond Counsel and counsel to the Bondowner regarding the enforceability against the Borrower of each of the documents to which the Borrower is a party;

(e) delivery to the Trustee or into escrow with the title company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Loan and any underlying real estate transfers or transactions, as specified in written instructions delivered to the title company by counsel to the Bondowner (or such other counsel as may be acceptable to the Bondowner) and/or as specified in a closing memorandum of the Bondowner; and

(f) the Construction Disbursement Agreement shall have been executed by the parties thereto, and all conditions to the purchase of the Bonds provided therein shall have been satisfied as evidenced by the advancement by the Bondowner of the Initial Disbursement.

Section 3.2. Commitment to Execute the Note. The Borrower agrees to execute and deliver the Note, the Construction Disbursement Agreement, the Regulatory Agreement, the Tax Certificate and the Deed of Trust simultaneously with the execution of this Loan Agreement.

Section 3.3. Making of the Loan. The City hereby makes to the Borrower and agrees to fund, and the Borrower hereby accepts from the City, upon the terms and conditions set forth herein and in the Construction Disbursement Agreement, the Loan and agrees to have the proceeds of the Loan applied and disbursed in accordance with the provisions of this Loan Agreement and the Construction Disbursement Agreement.

Section 3.4. Disbursement of Loan Proceeds. (a) The City hereby authorizes and directs the first funding and disbursement of the Loan on the Closing Date in an amount equal to the Initial Disbursement, subject to the conditions set forth in Section 3.1 above and the conditions set forth in the Construction Disbursement Agreement. Subject to the foregoing, the Borrower hereby authorizes the City to disburse on the date of execution and delivery of the Note, the Initial Disbursement representing the first advance of the principal amount of Loan to be transferred to or for the benefit of the Borrower to be used to pay Qualified Project Costs.

(b) The Trustee shall make disbursements of the remaining principal amount of the Loan directly to or for the benefit of the Borrower subject to Section 3.03 of the Indenture, and on the terms and subject to the conditions set forth in the Construction Disbursement Agreement.

ARTICLE IV

LIMITED LIABILITY

Section 4.1. Limited Liability. Notwithstanding anything herein or in any other instrument to the contrary, the City 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 Loan Agreement, the Bonds or any of the other Loan Documents, except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement. All obligations and any liability of the City shall be further limited as provided in Sections 5.01, 6.12, 7.10 and 11.09 of the Indenture.

ARTICLE V

REPAYMENT OF THE LOAN

Section 5.1. Loan Repayment. (a) The obligations of the Borrower for repayment of the principal of the Loan and for payment of interest thereon and premium, if any, with respect thereto shall be evidenced by the Note which shall be executed by the Borrower in the form required by the Construction Disbursement Agreement. The Borrower agrees to pay to the Trustee, the principal of, interest on and premium with respect to the Loan at the times, in the manner, in the amount and at the rate or rates of interest provided in the Note and in the other Loan Documents;

provided that at all times the repayment of the Loan shall be in time and amount sufficient to make timely payments of amounts due on the Bonds.

(b) The Borrower further agrees to pay all taxes and assessments, general or special, including, without limitation, all ad valorem taxes, concerning or in any way related to the Project, or any part thereof, and any other governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments with respect thereto; provided, however, that the Borrower reserves the right to contest in good faith the legality of any tax or governmental charge concerning or in any way related to the Project. In addition, the Borrower agrees to pay any loan fee, processing fee and all title, escrow, recording and closing costs and expenses, any appraisal costs and all other reasonable fees and costs associated with or required in connection with the Bonds, the Regulatory Agreement and Indenture; including but not limited to any such amounts described in Section 8.06 of the Indenture.

(c) The Borrower hereby acknowledges and consents to the assignment by the City to the Trustee and the Bondowner of the Issuer's rights under the Note, the Deed of Trust, this Loan Agreement (excepting only the Reserved Rights) and the other Loan Documents, and the appointment of the Trustee as agent of the City to collect the payments on the Loan, all as set forth in the Indenture.

(d) The Borrower hereby agrees to pay the City fees and expenses described in Section 18 of the Regulatory Agreement.

(e) The Borrower agrees to pay to the City within fifteen (15) days after receipt of request for payment thereof, all expenses of the City (including salaries and wages of City employees) related to the Project and the financing thereof that are not otherwise required to be paid by the Borrower under the terms of this Loan Agreement and are not paid from disbursements of the Loan, including, without limitation, legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Bonds.

(f) The Borrower agrees to pay to the Trustee, immediately upon demand for payment thereof, its fees and all reasonable out-of-pocket expenses of the Trustee in connection with its serving as Trustee under the Indenture that are not otherwise required to be paid by the Borrower under the terms of this Loan Agreement, including, without limitation, legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Bonds.

Section 5.2. Nature of the Borrower's Obligations. The Borrower shall repay the Loan pursuant to the terms of the Note and the Construction Disbursement Agreement irrespective of any rights of set-off, recoupment or counterclaim the Borrower might otherwise have against the City or any other person. The Borrower will not suspend, discontinue or reduce any such payment or (except as expressly provided herein) terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, (i) any delay or interruption in the construction or operation of the Project; (ii) the failure to obtain any permit, order or action of any kind from any governmental agency relating to the Loan or the Project; (iii) any event constituting force majeure; (iv) any acts or circumstances that may constitute commercial frustration of purpose; (v) any change in the laws of the United States of America, the State or any political subdivision thereof; or (vi) any failure of the City or the Borrower to perform or observe any covenant whether expressed or implied, or to discharge any duty, liability or obligation arising out of or connected with the Note; it being the intention of the parties that, as long as the Note or any portion thereof

remains outstanding and unpaid, the obligation of the Borrower to repay the Loan and provide such moneys shall continue in all events. This Section 5.2 shall not be construed to release the Borrower from any of its obligations hereunder, or, except as provided in this Section 5.2, to prevent or restrict the Borrower from asserting any rights which it may have against the City under the Note or the Deed of Trust or under any provision of law or to prevent or restrict the Borrower, at its own cost and expense, from prosecuting or defending any action or proceeding by or against the City, the Bondowner or the Trustee or taking any other action to protect or secure its rights. Nothing in this Section 5.2 or any other provision of this Loan Agreement, shall limit the rights of the City as provided in Section 7.3 hereof.

Section 5.3. No Encumbrances. The Borrower shall not create, permit, file or record against the Project without the prior written consent of the Bondowner any deed of trust lien or other lien, inferior or superior to the lien of the Deed of Trust, other than Permitted Encumbrances (as defined in the Construction Disbursement Agreement) and any lien created under any of the Subordinate Loan Documents (as defined in the Construction Disbursement Agreement).

ARTICLE VI

FURTHER AGREEMENTS

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

Section 6.2. Borrower Not to Dispose of Assets; Conditions Under Which Exceptions Permitted. The Borrower agrees that during the term of this Loan Agreement it will not dispose of all or substantially all of its assets nor consolidate with nor merge into any entity unless (i) the disposition is permitted under the applicable provisions of the Construction Disbursement Agreement, (ii) the City and the Bondowner shall consent to the disposition, consolidation or merger, (iii) the acquirer of its assets or the entity with which it shall consolidate or into which it shall merge shall be an individual or a corporation, partnership or other legal entity organized and existing under the laws of the United States of America or one of the states of the United States of America and shall be qualified and admitted to do business in the State; and (iv) such acquiring or remaining entity shall assume in writing all of the obligations of the Borrower under this Loan Agreement and the other Loan Documents to which the Borrower is a party.

Section 6.3. Cooperation in Enforcement of Regulatory Agreement. In order to maintain the exclusion from gross income of the owners of the Bonds under federal tax law of interest on the Bonds (other than any owner which a “substantial user” of the Project or a “related person,” as such terms are used in Section 147(a) of the Code) and to assure compliance with the laws of the State (including the Act), the Borrower hereby agrees that it shall, concurrently with or before the execution and delivery of the Bonds, execute and deliver the Regulatory Agreement and cause it to be recorded in the County Recorder’s office. The Borrower hereby covenants and agrees as follows:

- (a) to comply with all provisions of the Regulatory Agreement;
- (b) to advise the City in writing promptly upon learning of any default with respect to the covenants, obligations and agreements of the Borrower set forth in the Regulatory Agreement;
- (c) upon written direction by the City, to cooperate fully and promptly with the City in enforcing the terms and provisions of the Regulatory Agreement; and
- (d) to file in accordance with the time limits established by the Regulatory Agreement all reports and certificates required thereunder, and the Certification to the Secretary of the Treasury required by Section 4(e) of the Regulatory Agreement.

Subject to any applicable laws, including privacy laws, the books and records of the Borrower pertaining to the incomes of Low Income Tenants and Very Low Income Tenants residing in the Project shall be open to inspection by any authorized representative of the City and the Bondowner, including any Income Certifications (as defined in the Regulatory Agreement) obtained from tenants.

The City shall not incur any liability in the event of any breach or violation of the Regulatory Agreement by the Borrower, and the Borrower agrees to indemnify the City from any claim or liability for such breach pursuant to Section 8 of the Regulatory Agreement.

Section 6.4. Additional Instruments. The Borrower hereby covenants to execute and deliver such additional instruments and to perform such additional acts as may be necessary, in the opinion of the City, to carry out the intent of the Loan Documents or to perfect or give further assurances of any of the rights granted or provided for in the Loan Documents and the Note.

Section 6.5. Books and Records. The Borrower hereby covenants to permit the City, the Trustee and the Bondowner or their duly authorized representatives access during normal business hours to the books and records of the Borrower pertaining to the Loan and the Project, and to make such books and records available for audit and inspection, at reasonable times and under reasonable conditions to the City, the Bondowner, the Trustee and their duly authorized representatives and at the sole expense of the Borrower.

Section 6.6. Notice of Certain Events. The Borrower hereby covenants to advise the City and the Bondowner promptly in writing of the occurrence of any Event of Default hereunder or any event which, with the passage of time or service of notice, or both, would constitute an 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. In addition, the Borrower hereby covenants to advise the City and the Bondowner promptly in writing of the occurrence of any Act of Bankruptcy.

Section 6.7. Indemnification of the City and Trustee. The Borrower agrees to indemnify the City and the Trustee as provided in Section 8 of the Regulatory Agreement. The rights of any persons to indemnity thereunder and rights to payment of fees and reimbursement of expenses pursuant to Sections 5.1 and 7.4 hereof shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal. The provisions of this Section 6.7 shall survive the termination of this Loan Agreement.

Section 6.8. Consent to Assignment. The City has made an assignment under the Indenture of all rights and interest of the City in and to this Loan Agreement (except its Reserved Rights), the Note, the Deed of Trust and the other Loan Documents and the Trustee is authorized to collect the payments by the Borrower on the Loan; and the Borrower hereby consents to all such assignments and such appointment.

Section 6.9. Compliance with Usury Laws. Notwithstanding any other provision of this Loan Agreement, it is agreed and understood that in no event shall this Loan Agreement, with respect to the Note or other instrument of indebtedness, be construed as requiring the Borrower or any other person to pay interest and other costs or considerations that constitute interest under any applicable law which are contracted for, charged or received pursuant to this Loan Agreement in an amount in excess of the maximum amount of interest allowed under any applicable law.

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

The provisions of this Section 6.9 prevail over any other provision of this Loan Agreement.

[[Section 6.10. Leasehold Interest in the Project Site. The Borrower shall concurrently with the closing of the Loan have a [[leasehold]] interest in the Project site free and clear of any lien or encumbrance except for (i) liens for non-delinquent assessments and taxes not yet due; (ii) the Deed of Trust; (iii) the Regulatory Agreement; and (iv) any other encumbrances approved in writing by the Bondowner. Concurrently with the closing of the Loan, the Borrower shall cause to be delivered to the Bondowner one or more title policies, naming the Bondowner as the insured, as its interests may appear, with endorsements specified in the Bondowner's escrow instructions.]]

Section 6.11. Payment of Taxes. The Borrower has filed or caused to be filed all federal, state and local tax returns or information returns which are required to be filed with respect to the Project and of which Borrower has knowledge, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due and payable.

Section 6.12. No Untrue Statements. Neither this Loan Agreement nor any other document, certificate or statement furnished to the City, the Trustee or the Bondowner by or on behalf of the Borrower, contains to the best of the Borrower's knowledge any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading or incomplete as of the date hereof. It is specifically understood by Borrower that all such statements, representations and warranties shall be deemed to have been relied upon by the City as an inducement to make the Loan, and by the Bondowner as an inducement to buy the Bonds, and that if any such statements, representations and warranties were materially incorrect at the time they were made, the City may consider any such misrepresentation or breach an Event of Default.

Section 6.13. Insurance. The Borrower shall provide policies of property damage (fire, extended coverage, vandalism and malicious mischief), loss of rent, public liability and worker's compensation insurance with respect to the Project and the operation thereof required under the Deed of Trust and the Construction Disbursement Agreement.

Section 6.14. Tax Exempt Status of the Bonds. The Borrower represents, warrants and covenants that:

(a) *Qualified Residential Rental Project Exempt Facility Bonds*. The Borrower shall assure that the proceeds of the Bonds are used in a manner such that the Bonds will satisfy the requirements of section 142(d) of the Code relating to qualified residential rental projects.

(b) *Federal Guarantee Prohibition*. The Borrower shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(c) *Rebate Requirement*. The Borrower shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds.

(d) *No Arbitrage*. The Borrower shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

(e) *Maintenance of Tax-Exemption*. The Borrower shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bonds.

(f) *Private Activity Volume Cap*. The Bonds upon issuance and delivery shall be considered "private activity bonds" within the meaning of the Code with respect to which the California Debt Limit Allocation Committee has transferred a portion of the State of California's private activity bond allocation (within the meaning of section 146 of the Code) equal to the principal amount of the Bonds.

(g) *Limitation on Issuance Costs*. The Borrower covenants that, from the proceeds of the Bonds and investment earnings thereon, an amount not in excess of exceed two percent (2%) of the proceeds of the Bonds, will be used for costs of issuance of the Bonds, all within the meaning of section 147(g)(1) of the Code. For this purpose, if the fees of the initial Bondowner are retained as a discount on the purchase of the Bonds, such retention shall be deemed to be an expenditure of Proceeds of the Bonds for said fees.

(h) *Limitation of Expenditure of Proceeds*. The Borrower covenants that not less than 95 percent of the net proceeds of the Bonds (within the meaning of section 150(a)(3) of the Code) are paid for Qualified Project Costs.

(i) *Limitation on Land*. The Borrower covenants that less than twenty-five percent (25%) of the proceeds of the Bonds shall be used, directly or indirectly, for the acquisition of land.

(j) *Existing Facilities Limit*. The Borrower covenants that no proceeds of the Bonds shall be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment

therefor) if rehabilitation expenditures (as defined in section 145(d) of the Code) with respect to such building equal or exceed 15 percent of the portion of the cost of acquiring such building (and equipment) financed with Proceeds ; and provided, further, that this limitation shall not apply with respect to any structure other than a building if rehabilitation expenditures with respect to such structure equal or exceed 100 percent of the portion of the cost of acquiring such structure financed with the proceeds of the Bonds.

(k) *Certain Uses Prohibited.* The Borrower covenants that no proceeds of the Bonds shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility, facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises, and no portion of the proceeds of the Bonds shall be used for an office unless (i) the office is located on the premises of the facilities constituting the Project and (ii) not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

(l) *Income Targeting.* The Borrower hereby elects to have the Project meet the requirements of section 142(d)(1)(B) of the Code in that forty percent (40%) or more of the residential units in the Project shall be occupied by persons or families whose Adjusted Income (as defined in the Regulatory Agreement) is sixty percent (60%) or less of Median Income for the Area (as defined in the Regulatory Agreement), adjusted for household size.

(m) *Regulatory Agreement.* The Borrower shall comply with the Regulatory Agreement. The Borrower agrees to cause any amendments to any Regulatory Agreement to be recorded in the appropriate official public records of the County

Section 6.15. City Contracting Requirements. The Borrower covenants and agrees to comply with the provisions set forth in Exhibit A to this Loan Agreement, which is incorporated in and made a part of this Loan Agreement by this reference.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default. The occurrence of any one or more of the following events or conditions shall constitute an "Event of Default" under this Loan Agreement:

(a) Any failure by the Borrower to pay any amounts required to be paid on the Note when due;

(b) Any failure by the Borrower to pay as and when due and payable any other sums required to be paid by the Borrower under this Loan Agreement and the continuation of such failure for a period of five (5) days after the same are due; or

(c) Any failure of any representation or warranty made in this Loan Agreement, the Construction Disbursement Agreement or any requisition requesting disbursement of Loan proceeds to be true and correct; or

(d) Any failure by the Borrower to observe and perform any covenant or agreement on its part to be observed or performed hereunder or under any of the other Loan Documents, other than as referred to in subsections (a) or (b) of this Section 7.1, for a

period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the Borrower by the City or the Bondowner; provided, however, that in the event such breach or failure be such that it can be corrected but cannot be corrected within said 30-day period, the same shall not constitute an Event of Default hereunder if corrective action is instituted by the Borrower or on behalf of the Borrower within said 30-day period, is diligently pursued to completion thereafter and in any event is cured within 90 days after the initial notice of such failure is given to Borrower (provided, however, that, notwithstanding the foregoing, to the extent that a lesser or greater cure period is set forth in any Loan Document, the foregoing 30-day cure period shall not apply and such lesser or greater cure period shall govern and control with respect to defaults occurring thereunder); or

(e) Any Event of Default (as defined or otherwise set forth in the Indenture or any of the other Loan Documents) shall have occurred and shall remain uncured beyond any applicable cure period provided in the applicable document; or

(f) Any dissolution, termination, partial or complete liquidation, merger or consolidation of Borrower occurs, or any sale, transfer or other disposition of the Project or of all or substantially all of the assets of Borrower occurs; or

(g) Any failure by the Borrower to obtain any governmental approvals as required in order to proceed with the construction of the Project so as to complete the same by the Completion Date (as defined in the Construction Disbursement Agreement), or the revocation or other invalidation of any such approvals previously obtained; or

(h) Any change in the legal or beneficial ownership of the Borrower other than as expressly permitted by Section 11 of the Regulatory Agreement, by the terms hereof or by reason of the death of the owner of such interests; or

(i) Any failure by the Borrower to pay at maturity, or within any applicable period of grace, any Indebtedness, or any failure to observe or perform any material term, covenant or agreement contained in any agreement by which it is bound, evidencing or securing any Indebtedness, for such period of time as would permit (assuming the giving of appropriate notice if required) the holder or holders thereof or of any obligations issued thereunder to accelerate the maturity thereof; or

(j) The Borrower or its general partner (each an "Obligor" and collectively the "Obligors") shall file a voluntary petition in bankruptcy under Title 11 of the United States Code, or an order for relief shall be issued against any such Obligor in any involuntary petition in bankruptcy under Title 11 of the United States Code, or any such Obligor 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 such Obligor shall seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, conservator or liquidator of such Obligor, or of all or any substantial part of its respective property, or such Obligor shall make an assignment for the benefit of creditors, or such Obligor shall give notice to any governmental authority or body of insolvency or pending insolvency or suspension of operation; or

(k) An involuntary petition in bankruptcy under Title 11 of the United States Code shall be filed against any Obligor and such petition shall not be dismissed within ninety (90) days of the filing thereof; or

(l) A court of competent jurisdiction shall enter any order, judgment or decree approving a petition filed against any Obligor seeking any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or appointing any custodian, trustee, receiver, conservator or liquidator of all or any substantial part of its property; or

(m) Any of the events described in Section (j) or (k) occurs with respect to the Investor Limited Partner (as defined in the Borrower's partnership agreement) prior to funding by the Investor Limited Partner of all of the capital contributions required in order to permit the timely occurrence of the Maturity Date; or

(n) Any of the Loan Documents shall be canceled, terminated, revoked or rescinded otherwise than in accordance with the terms thereof or with the express prior written consent of the Bondowner (in its sole and absolute discretion), or any action at law, suit in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents shall be commenced by or on behalf of any Obligor which is a party thereto, or any of their respective stockholders, partners or beneficiaries, or any court or any other governmental or regulatory authority or agency of competent jurisdiction shall make a determination that, or issue a judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is illegal, invalid or unenforceable in accordance with the terms thereof.

Section 7.2. Remedies on Default.

(a) Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred, any obligation of the Bondowner to approve further disbursements of the Loan shall be terminated, and the Bondowner shall have the right (but not the obligation) to exercise any one and/or more of the following rights and remedies:

(i) by notice in writing to the Borrower, declare the entire unpaid indebtedness under the Note and the other Loan Documents to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable; and

(ii) take whatever action at law or in equity or under any of the Loan Documents, as may appear necessary or desirable to Bondowner to collect the payments and other amounts then due and thereafter to become due hereunder or under the Note, and/or to exercise any right or remedy or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement, the Note or any other Loan Document.

(b) Any amounts collected pursuant to action taken under this Section 7.2 (other than amounts collected by the City pursuant to the Reserved Rights) shall, after the payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the City, the Trustee or the Bondowner and their respective counsel, be paid into the Bond Fund (unless otherwise provided in this Loan

Agreement) and applied in accordance with the provisions of the Indenture. No action taken pursuant to this Section 7.2 shall relieve the Borrower from the Borrower's obligations pursuant to Section 6.14 hereof.

Section 7.3. No Remedy Exclusive. No remedy conferred herein or in any other Loan Document upon or reserved to the City or Bondowner is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement and each other Loan Document, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City or the Bondowner to exercise any remedy reserved to it herein or in any other Loan Document, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 7.4. Attorneys' Fees and Expenses. If an Event of Default occurs and if the City, the Trustee or the Bondowner should employ attorneys or incur expenses for the enforcement of any obligation or agreement of the Borrower contained herein, the Borrower on demand will pay to the City, the Trustee and/or the Bondowner the reasonable fees of such attorneys and the reasonable expenses so incurred, including court appeals.

Section 7.5. City Exercise of Remedies. Notwithstanding anything to the contrary contained herein, Bondowner shall have the sole and exclusive right to exercise, and direct the exercise of, all rights and remedies available to City, the Trustee or Bondowner; provided, however, that the City may enforce its Reserved Rights under the Loan Documents and exercise the permitted remedies with respect thereto against the Borrower; provided that the City shall not commence or direct the Trustee or the Bondowner to commence any action (a) to declare the outstanding balance of the Bonds or the Loan to be due, (b) to foreclose or to take similar action under the Deed of Trust or otherwise in respect of any liens upon or security interests in the Project or other property pledged to secure the Borrower's obligations under the Loan Documents, (c) to appoint a receiver, (d) to enforce any similar remedy against the Project or other property pledged to secure the Borrower's obligations under the Loan Documents; or (e) to enforce any other remedy which would cause any liens or security interests granted under the Loan Documents to be discharged or materially impaired thereby.

Section 7.6. No Additional Waiver Implied by One Waiver. In the event any agreement or covenant contained in this Loan Agreement should be breached by the Borrower and thereafter waived by the City or the Bondowner, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder including any other breach of the same agreement or covenant.

Section 7.7 Limited Partner Cure Right.. Notwithstanding anything contained in this Article VII to the contrary, the City agrees that any cure of any default made or tendered by the limited partner of the Borrower shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

ARTICLE VIII
MISCELLANEOUS

Section 8.1. Entire Agreement. This Loan Agreement, the Construction Disbursement Agreement, the Note, the Regulatory Agreement, the Deed of Trust and the other Loan Documents constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, between the City and the Borrower with respect to the subject matter hereof.

Section 8.2. Notices. All notices, certificates or other communications by the Borrower or the City under this Loan Agreement shall be provided at the address and as otherwise set forth in Section 11.06 of the Indenture.

Section 8.3. Assignments. This Loan Agreement may not be assigned by any party without the prior written consent of the other, except that the City shall assign its rights under this Loan Agreement pursuant to the Indenture, and except also that the Borrower may assign to any transferee its rights under this Loan Agreement as provided by Section 6.2.

Section 8.4. Severability. If any provision of this Loan Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

Section 8.5. Execution of Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Amendments, Changes and Modifications. Except as otherwise provided in this Loan Agreement, subsequent to the issuance of the Note and prior to its payment in full (or provision for payment thereof having been made in accordance with the provisions of the Indenture), this Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto and the written consent of the Bondowner.

Section 8.7. Governing Law. This Loan Agreement shall be governed exclusively by and construed in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 8.8. Term of Agreement. This Loan Agreement shall be in full force and effect from the date of execution and delivery hereof by the City and the Borrower until such time as the Note shall have been fully paid or provision made for such payment. Time is of the essence in this Loan Agreement.

Section 8.9. Survival of Agreement. All agreements, representations and warranties made herein shall survive the making of the Loan.

Section 8.10. Conflicts. If any term or condition of this Loan Agreement conflicts with any term or condition of any other Loan Document, the term or condition which imposes any greater

or stricter duties or obligations upon Borrower, or grants or affords City or Bondowner any greater rights or remedies, shall prevail.

Section 8.11. Binding Effect; Third Party Beneficiaries. This Loan Agreement shall inure to the benefit of and shall be binding upon the City, the Borrower and their respective successors and assigns. The Bondowner and the Trustee are intended third party beneficiaries of this Loan Agreement.

[Remainder of page intentionally left blank]

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

CITY AND COUNTY OF SAN FRANCISCO,
CALIFORNIA

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

Approved as to form:

DENNIS J. HERRERA
City Attorney

By: _____
Kenneth D. Roux
Deputy City Attorney

[Signature Page to Loan Agreement – Eddy and Taylor Family Housing]

EDDY & TAYLOR ASSOCIATES, L.P.,
a California limited partnership

By: E&T Housing GP LLC, a California limited
liability company, its general partner

By: Tenderloin Neighborhood Development
Corporation, a California nonprofit public
benefit corporation, its manager

By: _____
Donald S. Falk
Chief Executive Officer

[Signature Page to Loan Agreement – Eddy and Taylor Family Housing]

EXHIBIT A

CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

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

1. **Conflict of Interest.** Through its execution of this Loan Agreement, Owner 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 Loan Agreement.

2. **Proprietary or Confidential Information of City.** Owner understands and agrees that, in the performance of the work or services under this Loan Agreement or in contemplation thereof, Owner 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. Owner agrees that all information disclosed by City to Owner shall be held in confidence and used only in performance of the Agreement. Owner shall exercise the same standard of care to protect such information as a reasonably prudent Owner would use to protect its own proprietary data.

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

a. **The LBE Ordinance.** Owner 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 Owner's obligations or liabilities, or materially diminish Owner's rights, under this Loan Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Loan Agreement as though fully set forth in this section. Owner's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Owner's obligations under this Loan Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Loan Agreement, to exercise any of the remedies provided for under this Loan Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Loan Agreement expressly provides that any remedy is exclusive. In addition, Owner 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 Owner 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 Loan Agreement pertaining to LBE participation, Owner shall be liable for liquidated damages in an amount equal to Owner's net profit on this Loan Agreement, or 10% of the total amount of this Loan 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 Owner authorized in the LBE Ordinance, including declaring the Owner to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Owner’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 Loan Agreement, Owner acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Owner further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Owner on any contract with City. Owner 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 Loan 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. **Owner Shall Not Discriminate.** In the performance of this Loan Agreement, Owner agrees not to discriminate against any employee, City and County employee working with such Owner or Subcontractor, applicant for employment with such Owner 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.** Owner 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. Owner’s failure to comply with the obligations in this subsection shall constitute a material breach of this Loan Agreement.

c. **Nondiscrimination in Benefits.** Owner does not as of the date of this Loan Agreement and will not during the term of this Loan 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 Loan Agreement, Owner 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 Loan Agreement as though fully set forth herein. Owner shall comply fully with and be bound by all of the provisions that apply to this Loan Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Owner 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 Loan Agreement may be assessed against Owner and/or deducted from any payments due Owner.

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 Loan Agreement on behalf of Owner 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 Owners 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.** Owner 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. Owner agrees that any violation of this prohibition by Owner, its employees, agents or assigns will be deemed a material breach of this Loan Agreement.

8. **Resource Conservation.** Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Owner 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.** Owner 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 Owner, must be accessible to the disabled public. Owner shall provide the services specified in this Loan Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Owner agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Loan Agreement and further agrees that any violation of this prohibition on the part of Owner, its employees, agents or assigns will constitute a material breach of this Loan Agreement.

10. **Sunshine Ordinance.** In accordance with San Francisco Administrative Code §67.24(e), contracts, Owners’ 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 Loan Agreement, Owner 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. Owner 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. Owner further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Owner's board of directors; Owner's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Owner; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Owner. Additionally, Owner acknowledges that Owner must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Owner further agrees to provide to City the names of each person, entity or committee described above.

12. **Requiring Minimum Compensation for Covered Employees.**

a. Owner 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 Loan 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 Owner's obligations under the MCO is set forth in this Section. Owner is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Owner to pay Owner'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 Owner is obligated to keep informed of the then-current requirements. Any subcontract entered into by Owner 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 Owner's obligation to ensure that any Subcontractors of any tier under this Loan Agreement comply with the requirements of the MCO. If any Subcontractor under this Loan Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Owner.

c. Owner 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. Owner shall maintain employee and payroll records as required by the MCO. If Owner fails to do so, it shall be presumed that the Owner paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Owner's job sites and conduct interviews with employees and conduct audits of Owner.

f. Owner's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Loan 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 Owner fails to comply with these requirements. Owner 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 Owner's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Owner 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 Loan Agreement for violating the MCO, Owner fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Owner 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. Owner 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 Owner is exempt from the MCO when this Loan Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Owner later enters into an agreement or agreements that cause Owner to exceed that amount in a fiscal year, Owner shall thereafter be required to comply with the MCO under this Loan Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Owner and this department to exceed \$25,000 in the fiscal year.

13. Requiring Health Benefits for Covered Employees.

Owner 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 Loan 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 Loan Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Owner shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Owner 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 Owner 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. Owner's failure to comply with the HCAO shall constitute a material breach of this Loan Agreement. City shall notify Owner if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Loan Agreement for violating the HCAO, Owner fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Owner 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 Owner 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. Owner 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 Owner 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 Owner based on the Subcontractor's failure to comply, provided that City has first provided Owner with notice and an opportunity to obtain a cure of the violation.

e. Owner shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Owner'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. Owner 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. Owner 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. Owner shall keep itself informed of the current requirements of the HCAO.

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

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

m. If Owner is exempt from the HCAO when this Loan Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Owner later enters into an

agreement or agreements that cause Owner'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 Owner 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, Owner 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 Loan Agreement. Owner 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 Owner violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Loan Agreement, and (ii) prohibit Owner from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Owner's use of profit as a violation of this section.

15. **Preservative-treated Wood Containing Arsenic.** Owner may not purchase preservative-treated wood products containing arsenic in the performance of this Loan 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. Owner 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 Owner 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.** Owner 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 Loan 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.** Owner 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. Owner agrees that any failure of Owner 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 Owner pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Owner.

18. **Food Service Waste Reduction Requirements.** Owner 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 Loan Agreement as though fully set forth. This provision is a

material term of this Loan Agreement. By entering into this Loan Agreement, Owner agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Owner 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 Loan Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Owner's failure to comply with this provision

19. **Submitting False Claims; Monetary Penalties.** Pursuant to San Francisco Administrative Code §21.35, any Owner, Subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A Owner, Subcontractor or consultant will be deemed to have submitted a false claim to the City if the Owner, 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.