

File No. 191113

Committee Item No. 14

Board Item No. 24

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 13, 2019

Board of Supervisors Meeting

Date November 19, 2019

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CDLAC Resolution</u>         |
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| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <u>Power Point Presentation</u> |
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Completed by: Linda Wong

Date November 8, 2019

Completed by: Linda Wong

Date November 15, 2019

1 [Multifamily Housing Revenue Bonds - 1064-1068 Mission Street - Not to Exceed  
2 \$87,000,000]

3 Resolution authorizing the issuance and delivery of multifamily housing revenue bonds  
4 in an aggregate principal amount not to exceed \$87,000,000 for the purpose of  
5 providing financing for the acquisition and construction of a 258-unit, affordable  
6 multifamily residential rental housing project located at 1064-1068 Mission Street;  
7 approving the form of and authorizing the execution of a trust indenture providing  
8 terms and conditions of the bonds; approving the form of and authorizing the  
9 execution of a regulatory agreement and declaration of restrictive covenants;  
10 approving the form of and authorizing the execution of a loan agreement; authorizing  
11 the collection of certain fees; ratifying and approving any action heretofore taken in  
12 connection with the bonds and the project; granting general authority to City officials  
13 to take actions necessary to implement this Resolution; and related matters, as defined  
14 herein.

15 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
16 "Board") desires to provide for a portion of the costs of the acquisition and construction by  
17 1064 Mission, L.P., a California limited partnership (the "Borrower"), of a 258-unit, mixed use,  
18 residential rental housing development located at 1064-1068 Mission Street, San Francisco,  
19 California (the "Project"), including therein a complex of 103 units for seniors of low- and very  
20 low-income (plus one resident manager unit) and a complex of 153 units for adults of low- and  
21 very low-income (plus one resident manager unit), through the issuance of multifamily housing  
22 revenue bonds; and

23 WHEREAS, The City and County of San Francisco (the "City") is authorized to issue  
24 revenue bonds for such purpose pursuant to the Charter of the City, Article I of Chapter 43 of  
25 the Administrative Code of the City and, to the extent applicable, Chapter 7 of Part 5 of

1 Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of  
2 California ("Health and Safety Code"), as now in effect and as it may from time to time  
3 hereafter be amended or supplemented (collectively, the "Act"); and

4 WHEREAS, Any Bonds (hereinafter defined) to be issued to finance the Project will be  
5 limited obligations of the City, the sole source of repayment for which shall be payments made  
6 by the Borrower or collateral security pledged by or for the Borrower, together with investment  
7 income on certain funds and accounts; and

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

11 WHEREAS, This Board is the elected legislative body of the City and is the applicable  
12 elected representative required to approve the issuance of the Bonds within the meaning of  
13 Section 147(f) of the Code; and

14 WHEREAS, On May 21, 2019, the City published a notice on the City's website  
15 regarding its intent to hold a public hearing with respect to the issuance of multifamily housing  
16 revenue bonds in an amount not to exceed \$103,000,000 to finance the Project, and said  
17 hearing was held on June 3, 2019, by the Mayor's Office of Housing and Community  
18 Development and an opportunity was provided for persons to comment on the issuance of the  
19 Bonds and the financing of the Project; and

20 WHEREAS, Thereafter, on July 9, 2019, pursuant to Resolution No. 312-19, this Board  
21 approved the issuance of multifamily housing revenue bonds, in an amount not to exceed  
22 \$87,000,000, for the purposes of Section 147(f) of the Code, declared its intent to issue  
23 multifamily housing revenue bonds and authorized officers of the City to submit an application  
24 and related documents to the California Debt Limit Allocation Committee ("CDLAC") and take  
25 other actions in connection with the proposed financing of the Project; and

1           WHEREAS, On October 16, 2019, CDLAC, in its Resolution No. 19-152, allocated  
2 \$87,000,000 in qualified private activity bond volume cap to the Project; and

3           WHEREAS, There has been prepared and presented to this Board for consideration at  
4 this meeting the documentation required for the issuance of the Bonds, and such  
5 documentation is on file with the Clerk of the Board of Supervisors (the "Clerk of the Board");  
6 and

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

10           WHEREAS, This Board finds that public interest and necessity require that the City at  
11 this time make arrangements for the sale of the Bonds; and

12           WHEREAS, The City has engaged Jones Hall, A Professional Law Corporation, and  
13 Fox Rothschild LLP, as co-bond counsel with respect to the Bonds ("Co-Bond Counsel"); and

14           WHEREAS, JPMorgan Chase Bank, N.A. has expressed its intention to purchase, or  
15 cause an affiliate to purchase, the Bonds authorized hereby; now, therefore, be it

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

18           Section 1. Approval of Recitals. This Board hereby finds and declares that the above  
19 recitals are true and correct.

20           Section 2. Approval of Issuance of Bonds. In accordance with the Act and the  
21 Indenture (hereinafter defined), the City is hereby authorized to issue and deliver revenue  
22 bonds of the City, such bonds to be issued in one or more series, and designated as "City and  
23 County of San Francisco Multifamily Housing Revenue Bonds (1064 Mission Street  
24 Permanent Supportive Housing), Series 2020A," or such other designation as may be  
25 necessary or appropriate to distinguish such series from every other series of bonds of the



1 City, in an aggregate principal amount not to exceed \$87,000,000 (the "Bonds"), with an  
2 interest rate not to exceed twelve percent (12%) per annum for the Bonds, and which shall  
3 have a final maturity date not later than forty-five (45) years from the date of issuance of the  
4 Bonds. The Bonds shall be in the form set forth in and otherwise in accordance with the  
5 Indenture, and shall be executed by the manual signature of the Mayor of the City (the  
6 "Mayor") and as further provided in the Indenture.

7 Section 3. Indenture. The Trust Indenture (the "Indenture"), by and between the City  
8 and U.S. Bank National Association, as trustee thereunder (the "Trustee"), in the form  
9 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby  
10 approved. Each of the Mayor, the Director of the Mayor's Office of Housing and Community  
11 Development or any other Authorized City Representative (as such term is defined in the  
12 Indenture) of the City (collectively, the "Authorized Officers") is hereby authorized to execute  
13 the Indenture in said form, together with such additions thereto and changes therein as the  
14 City Attorney and Co-Bond Counsel may approve or recommend in accordance with Section 7  
15 hereof.

16 Section 4. Regulatory Agreement and Declaration of Restrictive Covenants. The  
17 Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory  
18 Agreement"), by and between the City and the Borrower, in the form presented to this Board,  
19 a copy of which is on file with the Clerk of the Board, is hereby approved. Each Authorized  
20 Officer is hereby authorized to execute the Regulatory Agreement, in said form, together with  
21 such additions thereto and changes therein as the City Attorney and Co-Bond Counsel may  
22 approve or recommend in accordance with Section 7 hereof.

23 Section 5. Approval of Loan Agreement. The Loan Agreement (the "Loan  
24 Agreement"), by and between the City and the Borrower, in the form presented to this Board,  
25 a copy of which is on file with the Clerk of the Board, is hereby approved. Each Authorized

1 Officer is hereby authorized to execute the Loan Agreement in said form, together with such  
2 additions thereto and changes therein as the City Attorney and Co-Bond Counsel may  
3 approve or recommend in accordance with Section 7 hereof.

4 Section 6. Issuer Fees. The City, acting through the Mayor's Office of Housing and  
5 Community Development, shall charge a fee for the administrative costs associated with  
6 issuing the Bonds (the "Issuance Fee") in an amount not to exceed 0.25% of the maximum  
7 aggregate principal amount of the Bonds. Such fee shall be payable at closing and may be  
8 contingent on the issuance of the Bonds. The City shall also charge an annual fee (the  
9 "Annual Fees") for monitoring compliance with the provisions of the Regulatory Agreement in  
10 an amount not to exceed 0.125% of the outstanding aggregate principal amount of the Bonds,  
11 but no less than \$2,500 annually, for the term of the Regulatory Agreement. The Board  
12 hereby authorizes the Mayor's Office of Housing and Community Development to charge and  
13 collect, or appoint an agent, which may be the Trustee, to collect on behalf of the City, the  
14 fees described in this section. Notwithstanding the foregoing provisions of this Section, the  
15 City, acting through the Mayor's Office of Housing and Community Development, is  
16 authorized to charge an Issuance Fee or Annual Fees, or both, that is or are lower than the  
17 fees prescribed in this Section if, upon the advice of Co-Bond Counsel, lower fees are  
18 necessary or advisable to ensure that the Bonds do not become "arbitrage bonds" within the  
19 meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or to ensure that  
20 interest on the Bonds does not become includable in gross income for federal income tax  
21 purposes.

22 Section 7. Modifications, Changes, Additions. Any Authorized Officer executing the  
23 Indenture, the Loan Agreement or the Regulatory Agreement (collectively, the "City  
24 Agreements"), in consultation with the City Attorney and Co-Bond Counsel, is hereby  
25 authorized to approve and make such modifications, changes or additions to the City

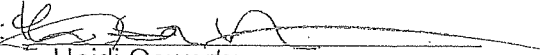
1 Agreements as may be necessary or advisable, provided that such modification does not  
2 authorize an aggregate principal amount of the Bonds in excess of \$87,000,000, provide for a  
3 final maturity on the Bonds later than forty-five (45) years from the date of issuance of the  
4 Bonds, or provide for the Bonds to bear interest at a rate in excess of twelve percent (12%)  
5 per annum. The approval of any modification, addition or change to any of the City  
6 Agreements shall be evidenced conclusively by the execution and delivery of the document in  
7 question.

8 Section 8. Ratification. All actions heretofore taken by the officers and agents of the  
9 City with respect to the sale, issuance and delivery of the Bonds, as consistent with the City  
10 Agreements and this Resolution, are hereby approved, confirmed and ratified.

11 Section 9. General Authority. The proper officers of the City, including but not limited  
12 to the Authorized Officers, are hereby authorized and directed, for and in the name and on  
13 behalf of the City, to do any and all things and take any and all actions and execute and  
14 deliver any and all certificates, agreements and other documents (including but not limited to  
15 any certificates necessary to allocate a portion of the previously-obtained voter approval of  
16 low rent housing projects pursuant to Article 34 of the State Constitution to the Project, if  
17 applicable), subordinations, assignments, tax documents and those documents described in  
18 the City Agreements, which they, or any of them, may deem necessary or advisable in order  
19 to consummate the lawful issuance and delivery of the Bonds and to effectuate the purposes  
20 thereof and of the City Agreements. Any such actions are solely intended to further the  
21 purposes of this Resolution, and are subject in all respects to the terms of the Resolution. No  
22 such actions shall increase the risk to the City or require the City to spend any resources not  
23 otherwise granted herein. Final versions of any such documents shall be provided to the  
24 Clerk of the Board for inclusion in the official file within 30 days of execution by all parties.  
25

1 Section 10. File. All documents referenced herein as being on file with the Clerk of  
2 the Board are located in File No. 19113, which is hereby declared to be a part of this  
3 Resolution as set forth fully herein.  
4

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

7  
8 By:   
9 Heidi Gewertz  
Deputy City Attorney

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LOAN AGREEMENT

by and between the

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

and

1064 MISSION, L.P.,  
a California limited partnership

dated as of January 1, 2020

relating to:  
\$87,000,000  
City and County of San Francisco, California  
Multifamily Housing Revenue Bonds  
(Mission Street Permanent Supportive Housing)  
Series 2020A

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37941-0014  
SF321921550.1

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## LOAN AGREEMENT

THIS LOAN AGREEMENT (as supplemented and amended from time to time, the "Loan Agreement"), dated as of January 1, 2020, 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 1064 Mission, 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 January 1, 2020, between the City and U.S. Bank 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 Eighty-Seven Million Dollars (\$87,000,000), for the purpose of financing the 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 and 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 any constitution or 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 Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exclusion from gross income of the owners thereof for federal income tax purposes of the interest on the Bonds (other than a "substantial user" of the Project or a "related person," as such terms are used in Section 147(a) of the Code). The Borrower intends to utilize all of the units that comprise the Project as multifamily rental housing during the Qualified Project Period.

(j) 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 original purchaser of the Bonds 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.

(k) 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.

(l) 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.

(m) 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(m).

(n) 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.

(o) All of the proceeds from the Loan plus the income from the investment of the proceeds of the Loan will be used to pay or reimburse the Borrower for Project Costs, and at least 97% of the proceeds of the Loan will be used to pay or reimburse the Borrower for Qualified Project Costs and less than 25% of such amount will be used to pay or reimburse the Borrower, directly or indirectly, for the cost of acquiring land or any interest therein. The Borrower shall assure that the proceeds of the Loan are expended so as to satisfy the requirements of section 142(d) of the Code relating to qualified residential rental projects.

(p) 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.

(q) The Borrower has not knowingly taken or permitted to be taken and will not knowingly take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on any of the Bonds to be included in the gross income of the owners thereof for purposes of federal income taxation (other than a "substantial user" of the Project or a "related person," as such terms are used in Section 147(a) of the Code).

(r) The Borrower covenants that it shall not take, or knowingly 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.

(s) 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.

(t) 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.

(u) 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

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 of 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.

(a) It is the intention of the City and the Borrower that interest on the Bonds shall be and remain excludable from gross income of the owners thereof for federal income taxation purposes (other than a "substantial user" of the Project or a "related person," as such terms are used in Section 147(a) of the Code), and to that end the covenants and agreements of the Borrower in this Section 6.14 are for the benefit of the Bondowner and the City.

(b) The Borrower covenants and agrees that it will not (i) use or permit the use of any of the funds provided by the City hereunder or any other funds of the Borrower, directly or indirectly, in such manner as would, or (ii) take or omit to take any other action that would, in each case cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(c) In the event that at any time the Borrower is of the opinion or becomes otherwise aware that for purposes of this Section 6.14 it is necessary to restrict or to limit the yield on the investment of any moneys held under the Indenture or under the Construction Disbursement Agreement, or otherwise by the Bondowner, the Borrower shall determine the limitations and so instruct the Trustee or Bondowner, as applicable, in writing and cause the Trustee or the Bondowner, as applicable, to comply with those limitations under the Indenture or the Construction Disbursement Agreement, respectively.

(d) The Borrower will take such action or actions as may be reasonably necessary in the opinion of Bond Counsel, or of which it otherwise becomes aware, to fully comply with Section 148 of the Code as applicable to the Bonds.

(e) The Borrower further agrees that it shall not discriminate on the basis of race, creed, color, sex, sexual preference, source of income (e.g. AFDC, SSI), physical disability, national origin or marital status in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project, to the extent required by applicable State or federal law.

(f) The Borrower further warrants and covenants that it has not executed and will not execute any other agreement, or any amendment or supplement to any other agreement, with provisions contradictory to, or in opposition to, the provisions, of this Loan Agreement and of the Regulatory Agreement, and that in any event, the requirements of this Loan Agreement and the Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith and therewith.

(g) The Borrower will use due diligence to complete the acquisition and construction of all of the units comprising the Project and reasonably expects to fully expend the entire \$87,000,000 authorized principal amount of the Loan by [August 31, 2021].

(h) The Borrower will take such action or actions as necessary to ensure compliance with Sections 2.2(j), (o), (p), (q) and (r) hereof.

(i) 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. The Borrower will make timely payment of any rebate amount due to the federal government by reason of Section 148(f) of the Code, as applicable to the Bonds.

Section 6.15. Recordation of Amendments to 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 6.16. Useful Life. The Borrower hereby represents and warrants that, within the meaning of Section 147(a)(14) of the Code, the average maturity of the Bonds does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of the Bonds.

Section 6.17. Federal Guarantee Prohibition. The Borrower shall take no action, nor permit nor suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 6.18. Prohibited Facilities. The Borrower represents and warrants that no portion of the proceeds of the Loan shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises, and no portion of the proceeds of the Note shall be used for an office unless (i) the office is located on the premises of facilities constituting a portion of 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.

Section 6.19. Election of Applicable Income Limit. The City 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 comprising each Project (as such term is used in each Regulatory Agreement) shall be occupied by persons or families whose Adjusted Income is sixty percent (60%)] or less of Area Median Gross Income, adjusted for household size.

Section 6.20. 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: \_\_\_\_\_  
Director, Mayor's Office of Housing and Community  
Development

Approved as to form:

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Heidi Gewertz  
Deputy City Attorney

[Signature Page to Loan Agreement –Mission Street Permanent Supportive Housing]

1064 MISSION, L.P.,  
a California limited partnership

By: 1064 Mission LLC, a California limited liability  
company, its managing general partner

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

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

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

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

By: Mercy Housing 1064 Mission LLC, a California  
limited liability company, its general partner

By: Mercy Housing Calwest, a California  
nonprofit public benefit corporation, its  
sole member/manager

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

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

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

[Signature Page to Loan Agreement –Mission Street Permanent Supportive 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 text hereof. Capitalized terms used but not defined in this Exhibit shall have the meanings given in this Loan Agreement. As used herein, the Borrower shall be known as the "Obligated Party".

1. Nondiscrimination; Penalties.

(a) *Non Discrimination in Contracts.* The Obligated Party shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. The Obligated Party shall incorporate by reference in any subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require any subcontractors to comply with such provisions. The Obligated Party is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) *Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2.* The Obligated Party 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 employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees; subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) *Condition to Contract.* As a condition to the Loan Agreement, the Obligated Party shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

2. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Loan Agreement. By entering into this Loan Agreement, the Obligated Party confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

3. Tropical Hardwood and Virgin Redwood Ban. Under San Francisco Environment Code Section 804(b), the City urges the Obligated Party not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require the Obligated Party to remove from, City facilities personnel of such Obligated Party who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

5. Compliance with Americans with Disabilities Act. The Obligated Party shall provide the services specified in the Agreement in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

6. Sunshine Ordinance. The Obligated Party acknowledges that this Agreement and all records related to its formation, such Obligated Party's performance of services provided under the Agreement, and the City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

7. Limitations on Contributions. By executing this Agreement, the Obligated Party 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. The prohibition on contributions applies to each prospective party to the contract; each member of the Obligated Party's board of directors; the Obligated Party's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in such Obligated Party; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by such Obligated Party. The Obligated Party must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

8. Requiring Minimum Compensation for Covered Employees. The Obligated Party shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. The Obligated Party is subject to the enforcement and penalty

provisions in Chapter 12P. By entering into this Loan Agreement, the Obligated Party certifies that it is in compliance with Chapter 12P.

9. Requiring Health Benefits for Covered Employees. The Obligated Party shall comply with San Francisco Administrative Code Chapter 12Q. The Obligated Party shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12Q.

10. Prohibition on Political Activity with City Funds. In performing the services provided under the Loan Agreement, the Obligated Party shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12G.

11. Nondisclosure of Private, Proprietary or Confidential Information. If this Agreement requires the City to disclose "Private Information" to the Obligated Party within the meaning of San Francisco Administrative Code Chapter 12M, the Obligated Party shall use such information consistent with the restrictions stated in Chapter 12M and in this Loan Agreement and only as necessary in performing the services provided under the Loan Agreement. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services provided under the Loan Agreement, the Obligated Party may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to the Obligated Party, such information must be held by such Obligated Party in confidence and used only in performing the Loan Agreement. The Obligated Party shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

12. Consideration of Criminal History in Hiring and Employment Decisions. The Obligated Party agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Loan Agreement. The text of Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of the Obligated Party's obligations under Chapter 12T is set forth in this Section. The Obligated Party is required to comply with all of the applicable provisions of Chapter 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Loan Agreement shall have the meanings assigned to such terms in Chapter 12T.

The requirements of Chapter 12T shall only apply to the Obligated Party's operations to the extent those operations are in furtherance of the performance of this Loan Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Loan Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco which excludes City property. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

13. Reserved.

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

15. Conflict of Interest. By entering into the Loan Agreement, the Obligated Party certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Loan Agreement.

16. Assignment. The services provided under the Loan Agreement to be performed by the Obligated Party are personal in character and neither this Loan Agreement nor any duties or obligations may be assigned or delegated by the Obligated Party unless first approved by the City by written instrument executed and approved in the same manner as this Loan Agreement. Any purported assignment made in violation of this provision shall be null and void.

17. Food Service Waste Reduction Requirements. The Obligated Party shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the provided remedies for noncompliance.

18. Cooperative Drafting. This Loan Agreement has been drafted through a cooperative effort of the City and the Obligated Party, and all parties have had an opportunity to have the Loan Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Loan Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Loan Agreement.

19. Laws Incorporated by Reference. The full text of the laws listed in this Exhibit, including enforcement and penalty provisions, are incorporated into this Loan Agreement by reference. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Exhibit are available at [www.sfgov.org](http://www.sfgov.org) under "Open Gov."

20. Sugar-Sweetened Beverage Prohibition. The Obligated Party agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Loan Agreement.

21. First Source Hiring Program. The Obligated Party must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Loan Agreement, and the Obligated Party is subject to the enforcement and penalty provisions in Chapter 83.

22. Prevailing Wages. Obligated Party understands and agrees that all provisions of Section 1770, et seq., of the California Labor Code are required to be incorporated into every contract for any public work or improvement and are hereby incorporated into this Loan Agreement. Obligated Party also understands and agrees that all provisions of Sections 6.22E and 6.22F of the San Francisco Administrative Code are hereby incorporated into this Loan Agreement. Obligated Party also understands and agrees that all applicable provisions of the Davis-Bacon Act (40 U.S.C. §§141 et seq.) are hereby incorporated into this Loan Agreement.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Katherine S. Thursby, Esq.  
Fox Rothschild LLP  
345 California Street, Suite 2200  
San Francisco, CA

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[APN]

REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS

by and between the

CITY AND COUNTY OF SAN FRANCISCO

and

1064 MISSION, L.P.

Dated as of January 1, 2020

Relating to:

City and County of San Francisco  
Multifamily Housing Revenue Bonds  
(1064 Mission Street Permanent Supportive Housing),  
Series 2020A

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REGULATORY AGREEMENT AND DECLARATION OF  
RESTRICTIVE COVENANTS

This REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Regulatory Agreement") is made and entered into as of January 1, 2020, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation and chartered city and county, duly organized and validly existing under its City Charter and the Constitution and laws of the State of California (together with any successor to its rights, duties and obligations, the "City"), and 1064 Mission, L.P., a California limited partnership (the "Owner"), owner of a leasehold interest in the land described in Exhibit A attached hereto.

RECITALS

A. WHEREAS, pursuant to the Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as now in effect and as may be amended and supplemented (collectively, the "Act"), the City is authorized to issue revenue bonds to make loans to any person in order to finance development of multifamily rental housing; and

B. WHEREAS, the Board of Supervisors of the City has authorized the execution and delivery of multifamily revenue bonds under the Act in connection with the acquisition and construction of property to assist adults and seniors experiencing homelessness located on the site described in Exhibit A hereto and to be known as 1064 Mission Street Permanent Supportive Housing (the "Project"), which Project shall be subject to the terms and provisions hereof; and

C. WHEREAS, in furtherance of the purposes of the Act and as a part of the City's plan of financing affordable housing, the City is issuing its revenue bonds designated "City and County of San Francisco Multifamily Revenue Bonds (1064 Mission Street Permanent Supportive Housing), Series 2020A (the "Bonds") pursuant to the terms of an Indenture of Trust of even date herewith (the "Indenture"), between the City and U.S. Bank National Association, as trustee (the "Trustee"), the proceeds of which Bonds are to be loaned to the Borrower (the "Loan") pursuant to a Loan Agreement of even date herewith (the "Loan Agreement") among the City, the Trustee and the Borrower, to finance the Project, pursuant to a Resolution adopted by the City on \_\_\_\_\_ (the "Resolution"); and

D. WHEREAS, City hereby certifies that all things necessary to make the Bonds, when executed and delivered as provided in the Resolution and the Indenture, the valid, binding and limited obligations of the City have been done and performed, and the execution and delivery of the Bonds, in all respects have been duly authorized; and

E. WHEREAS, the Code (as defined herein) and the regulations and rulings promulgated with respect thereto and the Act prescribe that the use and operation of the Project be restricted in certain respects and in order to ensure that the Project will be acquired, constructed, equipped, used and operated in accordance with the Code and the Act, the City and the Owner have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition and construction of the Project.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the City and the Owner agree as follows:

1. Definitions and Interpretation. Capitalized terms used herein have the meanings assigned to them in this Section 1, unless the context in which they are used clearly requires otherwise:

“Act” - The Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and, as applicable, Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented.

“Adjusted Income” - The adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed pursuant to Section 8 of the Housing Act, or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act.

“Affiliated Party” - A Person whose relationship with the Owner would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) a Person who together with the Owner are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein), (c) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Owner would result in a disallowance of losses under Section 267 or 707(b) of the Code, and (d) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Owner would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Annual Monitoring Report” has the meaning set forth in Section 5(l).

“Area” - The HUD Metro Fair Market Rent Area (HMFA), or the successor area determined by HUD in which the Project is located.

“Authorized Owner Representative” - Any person who at the time and from time to time may be designated as such, by written certificate furnished to the City and the Trustee containing the specimen signature of such person and signed on behalf of the Owner by the general partner(s) of the Owner, which certificate may designate an alternate or alternates.

“Available Units” - Residential units in the Project (except for not more than one unit set aside for a resident manager) that are actually occupied and residential units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a residential unit that is vacant on the later of (i) the date the Project is acquired or (ii) the date of the execution and delivery of the Bonds are not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit

that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“Bonds” – Has the definition given to it in the recitals hereto.

“Bondowner,” “Holder,” “holder,” “Bondholder,” “Owner of the Bonds,” or “owner of the Bonds” shall mean the person in whose name the Bonds are registered in the Bond register maintained by the Trustee pursuant to the Indenture. Initially, the Bondowner shall be the Lender.

“CDLAC” - The California Debt Limit Allocation Committee.

“CDLAC Requirements” - The requirements described in Section 27 of this Regulatory Agreement.

“CDLAC Resolution” - The Resolution described in Section 27 of this Regulatory Agreement.

“Certificate of Continuing Program Compliance” - The Certificate with respect to the Project to be filed by the Owner with the City and the Program Administrator, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit D, or such other form as is provided by the City and executed by an Authorized Owner Representative.

“City” - The City and County of San Francisco, California.

“City Median Income” - the “Maximum Income by Household Size” derived by the Mayor’s Office of Housing and Community Development and published annually, based on the unadjusted area median income for the Area, as determined annually by HUD in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009a of the Housing and Economic Recovery Act of 2008 or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination, and being adjusted for family size but unadjusted for high housing costs.

“Closing Date” - The date of the initial delivery of the Bonds, being January \_\_, 2020.

“Code” - The Internal Revenue Code of 1986, as in effect on the execution and delivery of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of the execution and delivery of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Completion Certificate” - The certificate of completion of the construction of the Project required to be executed by an Authorized Owner Representative and delivered to the City and the Lender by the Owner pursuant to Section 2(e) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

“Completion Date” - The date of completion of the construction of the Project, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.

“Costs of Issuance” means the issuance costs for purposes of Section 147(g) of the Code incurred with respect to the issuance of the Bonds, but does not include fees charged by the City with respect thereto.

“CTCAC” - The California Tax Credit Allocation Committee.

“Displaced Tenant Preference Certificate Holder” - A person or household that has been issued a certificate under the Displaced Tenant Preference Program, as further described in the Operational Rules attached as Exhibit J.

“Expiration of the Qualified Project Period” – means the date of the last event to occur under the definition of “Qualified Project Period” herein.

“Facilities” - The multifamily buildings, structures and other improvements on the Site to be acquired, rehabilitated and equipped with the proceeds of the Indenture, and all fixtures and other property owned by the Owner and located on the Site, or used in connection with, such buildings, structures and other improvements. The Facilities do not include any commercial space and also expressly exclude the portions of the first floor of the building located on the Site occupied as of the date of this Agreement by the Conquering Homelessness through Employment in Food Service program.

“General Partner” – Mercy Housing 1064 Mission LLC, a California limited liability company, the Borrower’s general partner, and/or any other Person that the partners of Owner, with the prior written approval of City and the Lender (to the extent required pursuant to the Loan Documents), have selected to be a general partner of Owner, and any successor general partner of the Owner, in each case to the extent permitted under the Loan Documents and hereunder.

“Housing Act” – 42 U.S.C. Section 1437, known as the United States Housing Act of 1937, as amended.

“Housing Authority” - The Housing Authority of the City and County of San Francisco and any of its successors.

“Housing Law” - Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended.

“HUD” - The United States Department of Housing and Urban Development, its successors and assigns.

“Income Certification Form” – A fully completed and executed Income Certification Form substantially in the form designated in Exhibit B, or such other form as may be provided by the City.

“Indenture” – has the meaning given to in the recitals hereto.

“Inducement Date” – July 24, 2018, the date of adoption of the Inducement Resolution.

“Inducement Resolution” – Resolution No. 269-18 adopted by the Board of Supervisors of the City on the Inducement Date and approved by the Mayor, indicating its intention to issue tax-exempt obligations to finance a portion of the Project.

“Investor Limited Partner” – NEF Assignment Corporation and any of their successors that have been admitted as a limited partner in Owner in accordance with the Owner’s Governing Agreement, together with its successors and assigns.

“Lender” or “Bondowner” – Means JPMorgan Chase Bank, N.A.

“Loan Agreement” – Has the definition given to it in the Recitals hereto.

“Low Income Tenant” – Any Tenant in the Project whose Adjusted Income does not exceed sixty percent (60%) of the lower of City Median Income or Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code or who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a Tenant’s status as a Low Income Tenant shall initially be made by the Owner on the basis of an Income Certification Form (a form of which is attached hereto as Exhibit B) executed by the Tenant upon such Tenant’s occupancy of a Restricted Unit in the Project and upon annual recertification thereafter. In determining if any Tenant is a Low Income Tenant for purposes of any requirement of the City hereunder, the maximum Adjusted Income shall be based on the applicable percentage of the lower of the City Median Income or Median Income for the Area.

“Low Income Units” – The dwelling units in the Project required to be rented to, or designated for occupancy by, Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

“Managing General Partner” – 1064 Mission LLC, a California limited liability company, the Borrower’s managing general partner, and/or any other Person that the partners of Owner, with the prior written approval of City and the Lender (to the extent required pursuant to the Loan Documents), have selected to be a general partner of Owner, and any successor general partner of the Owner, in each case to the extent permitted under the Loan Documents and hereunder.

“Median Income for the Area” – The median gross income for the Area, as determined in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009(a) of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 122 Stat 2654) or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act, including adjustments for household size and high housing cost area.

“Owner” – 1064 Mission, L.P., a California limited partnership, and its permitted successors and assigns.

“Operational Rules” – The Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities are incorporated by reference in Exhibit J.

“Owner’s Governing Agreement “ – The Agreement of Limited Partnership relating to Owner, by and among the Managing General Partner, General Partner, and Limited Partner.

“Permitted Encumbrances” – Has the definition given to it in the Security Instrument.

“Program Administrator” - A governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on bond financed multifamily housing projects, which shall be the City initially and, at the City’s election, any other person or entity appointed by the City who shall enter into an administration agreement in a form acceptable to the City.

“Project” - The Facilities and the Site.

“Project Costs” - To the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Owner with respect to the acquisition and construction of the residential component of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site acquisition, preparation, the planning of housing and related facilities and improvements, the removal or demolition of existing structures, the acquisition and construction of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractor’s and Owner’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest on financing for the Project.

“Qualified Project Costs” - The Project Costs incurred after the date which is sixty (60) days prior to the Inducement Date and that are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Owner or but for the proper election by the Owner to deduct those amounts, within the meaning of Regulations Section 1.103-8(a)(1); provided, however, that only such portion of the interest accrued during acquisition and construction of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs, and provided further that such interest shall cease to be a Qualified Project Cost on the Completion Date, and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified Project Costs” shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).



“Qualified Project Period” –the period beginning on the Closing Date as specified in Section 2(p) of this Agreement and ending on the later of the following (subject to earlier termination pursuant to Section 12 hereof):

(a) the date that is fifty-five (55) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;

(b) the first date on which no Tax-Exempt private activity bonds or notes with respect to the Project are Outstanding;

(c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates; or

(d) the date that is seventy-five (75) years after the Closing Date.

“Qualified Tenant” – A Very-Low Income Tenant or a Low Income Tenant.

“Regulations” - The income tax regulations promulgated by the United States Department of the Treasury pursuant to the Code (or its predecessor) from time to time.

“Regulatory Agreement” - This Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

“Restricted Unit” – A Low (or Very Low) Income Unit.

“Section 8” – Section 1437f of the Housing Act, unless explicitly referring to a section of this Regulatory Agreement (e.g., “Section 8 hereof”).

“Security Instrument” – The Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of the date hereof, executed by Owner in favor of the City, encumbering the Project.

“Site” - The parcel or parcels of real property described in Exhibit A, which is attached hereto, and all rights and appurtenances thereto.

“SSI” – Supplemental Security Income administered pursuant to P.L. 74-271, approved August 14, 1935, 49 Stat. 620, as now in effect and as it may from time to time hereafter be amended or supplemented.

“State” - The State of California.

“TANF” – The Temporary Assistance for Needy Families program administered pursuant to 42 U.S.C. Sections 601-687.

“Tax Certificate” – The Tax Certificate and Agreement dated as of the Closing Date executed and delivered by the City and the Owner.

“Tax Counsel” – An attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, who is selected by the City and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Tax-Exempt” – With respect to the status of interest on the Bonds the exclusion of interest thereon from gross income of the Bondholder for federal income tax purposes pursuant to Section 103(a) of the Code (other than interest on any portion of the Bonds owned by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code).

“Tenant” – At any time of determination thereof, all persons who together occupy a single residential unit in the Project, and upon the occupancy of a unit by any individual in addition to the previous Tenant of such unit, such unit shall be deemed to be occupied by a new Tenant.

“Trustee” – Has the definition given to it in the Recitals hereto.

“Very Low Income Tenant” – Any Tenant whose Adjusted Income does not exceed fifty percent (50%) of the lower of City Median Income or Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Very Low Income Tenants. The determination of a Tenant’s status as a Very Low Income Tenant shall initially be made by the Owner on the basis of the Income Certification Form (a form of which is attached hereto as Exhibit B) executed by the Tenant upon such Tenant’s occupancy of a unit in the Project and upon annual recertification thereafter.

“Very Low Income Unit” - A dwelling unit in the Project required to be rented to, or designated for occupancy by, Very Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender used in this Regulatory Agreement shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

2. Acquisition and Construction of the Project. The Owner hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Owner has incurred, or will incur within six (6) months after the Closing Date, a substantial binding obligation to a third party to commence the construction of the Project, pursuant to which the Owner is or will be obligated to expend at least the lesser of (i) five (5) percent of the aggregate principal amount of the Bonds or (ii) \$100,000 for the payment of Qualified Project Costs.

(b) The Owner's reasonable expectations respecting the total cost of acquisition and construction of the Project and the disbursement of proceeds of the Bonds are accurately set forth in the Tax Certificate delivered to the City on the Closing Date.

(c) The Owner will proceed with due diligence to complete the acquisition and construction of the Project and expects to expend the maximum authorized amount of the Loan for Project Costs within three (3) years of the Closing Date.

(d) The Owner shall prepare and submit to the City a final allocation of the proceeds of the Bonds to the payment of Qualified Project Costs, which allocation shall be consistent with the Cost Certification (as defined in the Owner's Governing Agreement) within 60 days after the Completion Date, but in any event no later than the earlier of (1) 18 months from the placed in service date for the Project, or (2) the fifth anniversary of the Closing Date.

(e) Within thirty (30) days of the Completion Date, the Owner will submit to the City and the Trustee a duly executed and completed Completion Certificate.

(f) Money on deposit in any fund or account in connection with the Bonds, whether or not such money was derived from other sources, shall not be used by or under the direction of the Owner in a manner which would cause any or all of the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, and the Owner specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent any or all of the Bonds from being an "arbitrage bond" under the Code.

(g) The Owner (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take any action if such action or omission would in any way cause the proceeds from the sale of the Bonds to be applied in a manner contrary to the requirements of the Indenture, the Loan Agreement or this Regulatory Agreement.

(h) On or concurrently with the final draw by the Owner of amounts representing proceeds of the Bonds, the expenditure of such draw, when added to all previous disbursements representing proceeds of the Bonds, will result in not less than ninety-seven percent (97%) of all disbursements of the proceeds of the Bonds having been used to pay or reimburse the Owner for Qualified Project Costs and less than twenty-five (25%) percent of all disbursements having been used to pay for the acquisition of land or any interest therein. For the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code and the Owner further covenants that it will not exercise any option to prepay the Bonds except upon the express written consent of the Investor Limited Partner; provided, however, the foregoing representation, covenant

and warranty is made for the benefit of the Owner and its partners and neither the City nor the Trustee shall have any obligation to perform, assure compliance with or enforce this covenant nor shall they incur any liability to any person, including without limitation, the Owner, the partners of the Owner, any other affiliate of the Owner or the holders of the Bonds for any failure to comply with or meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or "Event of Default" under this Agreement or the Loan Agreement.

(i) The statements made in the various certificates delivered by the Owner to the City on the Closing Date are true and correct.

(j) All of the amounts received by the Owner from the proceeds of the Bonds and earnings from the investment of such proceeds will be used to pay Project Costs; and no more than two percent (2%) of the proceeds of the Bonds shall be used to pay Costs of Issuance of the Bonds.

(k) The Owner will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt status of the interest on the Bonds, and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(l) The Owner will take such action or actions as may be necessary, in the written opinion of Tax Counsel to the City, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the Tax-Exempt status of the interest on the Bonds.

(m) No portion of the proceeds of the Bonds shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. No portion of the proceeds of the Bonds shall be used for an office unless the office is located on the premises of the facilities constituting the Project and unless not more than a de minimis amount of the functions to be performed of such office is not related to the day-to-day operations of the Project.

(n) In accordance with Section 147(b) of the Code, the average maturity of the Bonds does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the facilities being financed by the Bonds.

(o) The Owner will provide a certificate in the form attached hereto as Exhibit E when 50% of the dwelling units in the Project are first occupied.

3. Qualified Residential Rental Property. The Owner hereby acknowledges and agrees that the Project will be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code). The City hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code and the Owner hereby elects

and covenants that it shall comply with Section 142(d)(1)(B) of the Code. To that end, and for the term of this Regulatory Agreement, the Owner hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Project is being acquired and constructed for the purpose of providing affordable multifamily residential rental property, and the Owner shall own, manage and operate the Project as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with applicable provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations, and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the residential dwelling units in the Project will be similarly constructed units, and, to the extent required by the Code and the Regulations, each residential dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range (which may be a countertop cooking range), refrigerator and sink.

(c) None of the residential dwelling units in the Project will at any time be used on a transient basis (e.g., subject to leases that are less than thirty (30) days in duration) (including use as a corporate suite), or be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(d) No part of the Project will at any time be owned as a condominium or by a cooperative housing corporation, nor shall the Owner take any steps in connection with a conversion to such ownership or uses. Other than obtaining a final subdivision map on the Project and a Final Subdivision Public Report from the California Department of Real Estate, the Owner shall not take any steps in connection with a conversion of the Project to a condominium ownership except with the prior written opinion of Tax Counsel that the Tax-Exempt status of the interest on the Bonds will not be adversely affected thereby.

(e) All of the residential dwelling units in the Project will be available for rental on a continuous basis to members of the general public and the Owner will not give preference to any particular class or group in renting the residential dwelling units in the Project, except to the extent required by (i) this Regulatory Agreement, (ii) any regulatory or restrictive use agreement to which the Project is or becomes subject pursuant to Section 42 of the Code, (iii) any additional tenant income and rent restrictions imposed by any other federal, State or local governmental agencies, and (v) any other legal or contractual requirement not excepted by clauses (i) through (iii) of this subsection, upon receipt by the Owner, the Trustee and the City of an opinion of Tax Counsel to the effect that compliance with such other requirement will not adversely affect the Tax-Exempt status of interest on the Bonds.

(f) The Site consists of a parcel or parcels that are contiguous and all of the Facilities will comprise a single geographically and functionally integrated project for residential

rental property (including the portions of the common areas allocated to the Project), as evidenced by the ownership, management, accounting and operation of the Project.

(g) No residential dwelling unit in the Project shall be occupied by the Owner. Notwithstanding the foregoing, if any building in the Project contains five or more residential dwelling units, this Subsection shall not be construed to prohibit occupancy of residential dwelling units in such building by one or more resident managers or maintenance personnel any of whom may be the Owner; provided that the number of such managers or maintenance personnel is not unreasonable given industry standards in the area for the number of residential dwelling units in the Project.

(h) The Owner shall not discriminate on the basis of race, creed, religion, color, sex, source of income (*e.g.*, TANF, Section 8 or SSI), physical disability (including HIV/AIDS), age, national origin, ancestry, marital or domestic partner status, sexual preference or gender identity in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the acquisition, construction, operation and management of the Project, except to the extent required hereby.

(i) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the City from enforcing the requirements of the Code and the Regulations, or condemnation or similar event, the Owner covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Bonds or, if permitted under the provisions of the Security Instrument, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations.

(j) The Owner agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a reasonably safe condition and (ii) in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof such that the Project shall be substantially the same condition at all times as the condition it is in at the time of the completion of the acquisition and construction of the Project with the proceeds of the Bonds. Notwithstanding the foregoing, the Owner's obligation to repair or rebuild the Project in the event of casualty or condemnation shall be subject to the terms of the Loan Agreement and the Security Instrument.

(k) The Owner agrees that it shall at all times comply with the terms of the Ground Lease between it and the City and County of San Francisco, dated as of \_\_\_\_, 2019, pursuant to which the City has leased the Site to the Owner.

(l) The Owner will not sell dwelling units within the Project.

4. Restricted Units. The Owner hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) Income and Rent Restrictions Pursuant to City Requirements. In addition to the requirements of Section 5, hereof, the Owner shall comply with the income and rent restrictions of this Subsection 4(a), and any conflict or overlap between any two (2) or more of such provisions shall be resolved in favor of the most restrictive of such provisions, that is, in favor of the lowest income and rent restriction.

(i) Income Restrictions Pursuant to the Code. Pursuant to the requirements of Section 142(d) of the Code, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the manager's unit), or one-hundred and three (103) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not be qualified Tenants pursuant to this sentence.

(ii) Income and Rent Restrictions Pursuant to the Housing Law. Pursuant to the requirements of Section 52080(a)(1)(B) of the Housing Law, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the manager's unit), or one-hundred and three (103) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not be qualified Tenants pursuant to this sentence. Pursuant to the requirements of Section 52080(a)(1)(B) of the Housing Law, the monthly rent charged for such units shall not exceed (a) one-twelfth (1/12<sup>th</sup>) of the amount obtained by multiplying thirty percent (30%) times sixty (60%) of the Median Income for the Area, (b) less the utility allowance.

(iii) CDLAC Requirements. To the extent the income and rent restrictions contained in the CDLAC Requirements are more restrictive than any of the foregoing requirements, the Owner shall comply with the CDLAC Requirements.

(iv) MOHCD Bond Program Manual Requirements. Notwithstanding anything herein to the contrary, the Owner shall comply with the income restrictions contained in the CDLAC Requirements and the rent restrictions set forth in paragraph (ii) of this Section 4(a) for the entirety of the Qualified Project Period.

Over-Income Tenants. Notwithstanding the foregoing provisions of Section 4(a), no Very Low Income Tenant or Low Income Tenant shall be denied continued occupancy of a Restricted Unit

in the Project because, after admission, the aggregate Adjusted Income of all Tenants in the Restricted Unit increases to exceed the qualifying limit for such Restricted Unit.

(b) Each Available Unit must be rented to or held vacant for a Very Low Income Tenant or Low Income Tenant.

(c) Income Certifications. For all occupied Available Units, the Owner will obtain, complete and maintain on file Income Certification Forms for each Tenant (i) immediately prior to the initial occupancy of a Restricted Unit by such Tenant, and (ii) thereafter, annually, together with such information, documentation and certifications as are required therein or by the City, in its discretion, to substantiate the Tenant's income. In addition, the Owner will provide such further information as may be required in the future by the State, CDLAC, the City (on a reasonable basis), the Program Administrator and by the Act, Section 142(d) of the Code or the Regulations, as the same may be amended from time to time, and in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code.

(d) Certificate of Continuing Program Compliance. Upon the commencement of the Qualified Project Period, and on each January 1st thereafter (or such other date as shall be requested in writing by the City or the Program Administrator) during the term of this Regulatory Agreement, the Owner shall advise the Program Administrator of the status of the occupancy of the Project by delivering to the Program Administrator (with a copy to the Trustee) a Certificate of Continuing Program Compliance (a form of which is attached hereto as Exhibit D). The Owner shall also timely provide to the City such information as is requested by the City to comply with any reporting requirements applicable to it with respect to the Bonds or the Project under any federal or State law or regulation, including without limitation, CDLAC regulations (Division 9.5 of Title 4 of the California Code of Resolutions).

(e) Recordkeeping. The Owner will maintain complete and accurate records pertaining to the Restricted Units, and will permit any duly authorized representative of the City, the Program Administrator (if other than the City), the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Owner pertaining to the Project upon reasonable notice during normal business hours, including those records pertaining to the occupancy of the Restricted Units, but specifically excluding any material which may be legally privileged.

(f) Annual Certification to Secretary of Treasury. The Owner shall submit to the Secretary of the Treasury annually on or before March 31 of each year, or such other date as is required by the Secretary of the Treasury, a completed Internal Revenue Service Form 8703, and shall provide a copy of each such form to the Program Administrator and the Trustee. Failure to comply with the provisions of this Subsection will subject the Owner to penalty, as provided in Section 6652(j) of the Code.

(g) Lease Provisions Regarding Income Certification Reliance. All leases pertaining to Restricted Units do and shall contain clauses, among others, wherein each Tenant



who occupies a Restricted Unit: (1) certifies the accuracy of the statements made in the Income Certification Form, (2) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such Tenant, that such Tenant will comply promptly with all requests for information with respect thereto from the Owner or the Program Administrator on behalf of the City, and that the failure to provide accurate information in the Income Certification Form or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such Tenant; (3) acknowledges that the Owner has relied on the Income Certification Form and supporting information supplied by the Tenant in determining qualification for occupancy of the Restricted Unit, and that any material misstatement in such certification (whether intentional or otherwise) will be cause for immediate termination of such lease or rental agreement; and (4) agrees that the Tenant's income is subject to annual certification in accordance with Subsection 4(c) hereof and that failure to cooperate with the annual recertification process reasonably instituted by the Owner pursuant to Subsection 4(d) above may provide grounds for termination of the lease.

(h) Maintenance of Tenant Lists and Applications. All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business which is unrelated to the Project and shall be maintained, as required from time to time by the Program Administrator on behalf of the City, in a reasonable condition for proper audit and subject to examination during normal business hours by representatives of the Project, the City or the Trustee. Failure to keep such lists and applications or to make them available to the City or the Trustee shall be a default hereunder.

(i) Tenant Lease Subordination. All tenant leases or rental agreements shall be subordinate to this Regulatory Agreement.

(j) No Encumbrance, Demolition or Non-Rental Residential Use. The Owner shall not take any of the following actions:

(i) other than Permitted Encumbrances or as otherwise previously approved by the City, encumber any portion of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases), except (a) pursuant to the provisions of this Regulatory Agreement and on a basis subordinate to the provisions of this Regulatory Agreement; to the extent applicable, (b) upon receipt by the Owner, the Trustee and the City of an opinion of Tax Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Bonds, or (c) upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement;

(ii) demolish any part of the Project or substantially subtract from any real or personal property of the Project (other than in the ordinary course of business); or

(iii) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

(k) Compliance with Regulatory Agreement. The Owner shall exercise reasonable diligence to comply or cause compliance with the requirements of this Regulatory Agreement and shall notify the City within fifteen (15) days and correct any noncompliance within

sixty (60) days after such noncompliance is first discovered by the Owner or would have been discovered by the exercise of reasonable diligence, unless such noncompliance is not reasonably susceptible to correction within sixty (60) days, in which event the Owner shall have such additional time as may be reasonably necessary to effect such correction provided the Owner has commenced such correction after discovery and is diligently prosecuting such correction and is keeping the City updated on its progress.

5. Additional Requirements of the City.

(a) Minimum Lease Term. The term of the lease for any Restricted Unit shall not be less than one year.

(b) Limitation on Rent Increases. Annual rent increases on a Restricted Unit shall be limited to the percentage increase of the annual change in the lower of the City Median Income or the applicable Median Income for the Area for that Restricted Unit, provided, however, that this provision shall not prohibit rent increases permitted for units covered by the Section 8 rental subsidy agreement during any period when such agreement is in effect. Rent increases which are permitted but not made in a given year may not be carried forward and made in any subsequent year.

(c) Appointment of Program Administrator. The Owner acknowledges that the City may appoint a Program Administrator (other than the City), at the sole cost and expense of the City, to administer this Regulatory Agreement and to monitor performance by the Owner of the terms, provisions and requirements hereof. In such event, the Owner shall comply with any reasonable request by the City and the Program Administrator to deliver to any such Program Administrator, in addition to or instead of the City, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection during normal business hours with reasonable notice by the Program Administrator as an agent of the City. The City may change the Program Administrator at its sole and exclusive discretion. The Owner shall have the right to rely on any consent or direction given by the Program Administrator on the same basis as if given by the City.

(d) Management Agent. The Owner shall not enter into any agreement providing for the management or operation of the Project with any party other than Caritas Management Corporation without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

(e) Preference In City Affordable Housing Programs.

(i) Certificate of Preference Program. To the fullest extent permitted by law, the Owner shall comply with the City's Certificate of Preference Program pursuant to San Francisco Administrative Code Section 24.8 and attached Exhibit J, to the extent such compliance is not in conflict with any other requirements imposed on the Project pursuant to Section 142(d) of the Code, the Act, the CDLAC Resolution, or CTCAC.

(ii) Other Preferences in City Affordable Housing Programs. To the fullest extent permitted by law, the Owner shall comply with San Francisco Administrative

Code Section 47.1, *et seq.* and the Operational Rules attached hereto as Exhibit J, to the extent such compliance is not in conflict with any other requirements imposed on the Project pursuant to Sections 42 and 142(d) of the Code, the Act, the CDLAC Resolution, CTCAC negotiations or other Federal or State law.

(f) Nondiscrimination Based on Section 8, Household Size, or Source of Income. The Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, or any successor program or similar federal, State or local governmental assistance program. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and the Owner shall not refuse to rent to any tenant on the basis of household size as long as such household size does not exceed two (2) persons for a studio unit; three (3) persons for a one-bedroom unit; five (5) persons for a two-bedroom unit and seven (7) persons for a three-bedroom unit. The Owner shall not collect any additional fees or payments from such a tenant except security deposits or other deposits required of all tenants. The Owner shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 program. The Owner shall not discriminate against tenant applicants on the basis of legal source of income (e.g., TANF, Section 8 or SSI), and the Owner shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (i.e., ability to pay shall be demonstrated if such a tenant can show that the same percentage or more of the tenant's income has been consistently paid on time for rent in the past as will be required to be paid for the rent applicable to the unit to be occupied, provided that such tenant's expenses have not increased materially). Further, Owner shall comply with all notice provisions set forth in the Housing Act prior to terminating any lease to which any Tenant previously certified by the Owner as a Low Income Tenant is a party. The Owner acknowledges that (i) federal notice requirements under the Housing Act are distinct from those under State law or City law and the Owner shall comply with all federal, State and local laws in connection with any such notice requirements, and (ii) compliance with the law of one jurisdiction shall not be deemed compliance with the laws of all jurisdictions.

(g) Overincome Provisions after Expiration of Qualified Project Period. Notwithstanding the provisions of Subsection 4(b), from and after the Expiration of the Qualified Project Period, in the event that Owner's certification of the Qualified Tenant's income, pursuant to Subsection 4(c), indicates that the Qualified Tenant's income exceeds one hundred twenty percent (120%) of the lower of the City Median Income or the Median Income for the Area, the Owner shall terminate such lease upon one hundred twenty (120) days prior written notice to the Tenant, and the lease for each Restricted Unit shall contain a statement to the foregoing effect. Notwithstanding the foregoing, the Owner shall not be required to terminate the Qualified Tenant's lease if any regulation or statute governing the Project or the financing thereof prohibits the termination of the Tenant's lease in this manner.

(h) Consideration for Restrictions. It is hereby acknowledged and agreed that any restrictions imposed on the operation of the Project herein and which are in addition to those imposed pursuant to Section 142(d) of the Code or the Act are agreed to by the Owner, in consideration of financial assistance from the City.

(i) Amendment or Waiver by City; Conflicting Provisions. The requirements of Section 5 hereof may be amended, modified or waived (but not increased or made more onerous), at the City's sole discretion, by written amendment signed by the City and the Owner, or expressly waived by the City in writing, but no such waiver by the City shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the City and the Trustee have received an opinion of Tax Counsel to the effect that any such provision is not required by the Code or the Act and may be waived without adversely affecting the Tax Exempt status of interest on the Bonds. Any requirement of Section 5 shall be void and of no force and effect if the City, the Trustee and the Owner receive a written opinion of Tax Counsel to the effect that compliance with such requirement would be in conflict with the Act or any other applicable state or federal law.

(j) Extension of Qualified Project Period. Notwithstanding any other provision herein, the requirements of this Section 5 shall be in effect through the Expiration of the Qualified Project Period; subject to those certain provisions, if any, that shall survive and remain in full force and effect following the Expiration of the Qualified Project Period, as specified in Section 11 hereof.

(k) Marketing and Tenant Selection Plan. Owner will market the Restricted Units in accordance with the Marketing and Tenant Selection Plan approved by the City, which shall be substantially in the form attached hereto as Exhibit K, or as or as otherwise required under the Loan Agreement and the Indenture.

(l) Annual Reporting. Owner must file with the City annual report forms (the "Annual Monitoring Report") no later than one hundred twenty (120) days after the end of Owner's fiscal year. The Annual Monitoring Report must be in substantially the form attached as Exhibit I as may be updated by the City from time to time.

6. [Reserved].

7. Additional Requirements of State Law. In addition to the requirements set forth herein pursuant to Section 52080 of the Housing Law, the Owner hereby agrees that it shall also comply with each of the following requirements in each case for the term of this Regulatory Agreement as set forth in Section 11 hereof:

(a) Tenants Under Section 8 of the Housing Act. The Owner shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, and shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

(b) Availability on Priority Basis. The Restricted Units shall remain available on a priority basis for occupancy at all times by Qualified Tenants.

(c) Binding Covenants and Conditions. The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Owner.

(d) Recordation of Regulatory Agreement. This Regulatory Agreement shall be recorded in the office of the county recorder of the City and County of San Francisco, California, and shall be recorded in the grantor-grantee index under the name of the Owner as grantor and to the name of the City as grantee.

(e) Restricted Income Units of Comparable Quality. The Restricted Units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants and shall be distributed throughout the Project. Notwithstanding the foregoing, the parties agree that this Subsection 6(e) shall have no practical effect because one hundred percent (100%) of the units (excluding the manager's unit) in the Project are required to be Restricted Units pursuant to Subsection 4(a).

(f) Availability Following Expiration of Qualified Project Period. Following the Expiration of the Qualified Project Period, except in the event of foreclosure and redemption of the Bonds, assignment of the leasehold interest in the Project deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by Subsection 4(a)(ii) shall remain available to any eligible Tenant occupying a Restricted Unit at the date of such expiration or termination, at the rent determined by Subsection 4(a)(ii), until the earliest of (i) the household's income exceeds one hundred-forty percent (140%) of the maximum eligible income specified therein except as specified in Subsection 5(g), (ii) the household voluntarily moves or is evicted for good cause, as defined in the Housing Law, and (iii) the Owner pays the relocation assistance and benefits to households if required by, and as provided in, Section 7264(b) of the California Government Code.

(g) Availability Preceding Expiration of Qualified Project Period. During the three (3) years prior to the Expiration of the Qualified Project Period, the Owner shall continue to make available to Restricted Units to Qualified Tenants that have been vacated to the same extent that non-Restricted Units, if any, are made available to non-eligible households.

(h) Notice and Other Requirements. The Owner shall comply with all applicable requirements of Section 65863.10 of the California Government Code, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and shall comply with all applicable requirements of Section 65863.11 of the California Government Code.

(i) Syndication of the Project. As provided in Section 52080(e) of the Housing Law, the City hereby approves the syndication of tax credits with respect to the Project, pursuant to Section 42 of the Code, to the Investor Limited Partner, or any affiliate thereof or successor thereto, pursuant to the terms of the Owner's Governing Agreement. Any subsequent syndication of tax credits with respect to the Project to an affiliate of the Investor Limited Partner shall not require the prior written approval of the City so long as the Owner's Governing Agreement will not be amended, modified or supplemented other than in connection with such syndication, except to reflect such transfer or limited partnership interests and other non-material corrections or adjustments; provided, however, that the Owner shall provide to the City, at least five (5) business days prior to the effective date of any such subsequent syndication, written notice of such syndication certifying that no amendment, modification or supplement to the Owner's Governing Agreement will be effected in connection with such syndication except to the extent necessary to

reflect such syndication, together with copies of any assignments of limited partnership interests and any other syndication documents. Any other syndication of the Project shall be subject to the prior written approval of the Director of the Mayor's Office of Housing and Community Development of the City, which approval shall be granted only after the City determines that the terms and conditions of such syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the requirements of the City set forth in this Section 6 hereof to be subordinated to the syndication agreement, and (3) shall not result in the provision of fewer Restricted Units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

8. Indemnification. To the extent permitted by law, the Owner hereby releases the City, the Trustee, and their respective officers, members, directors, officials and employees from, and covenants and agrees to indemnify, hold harmless and defend the City, the Trustee and the Trustee and the officers, members, directors, officials, agents and employees of each of them (collectively, the "Indemnified Parties," and each an "Indemnified Party") from and against any and all claims, losses, costs, damages, demands, expenses, taxes, suits, judgments, actions and liabilities of whatever nature, joint and several (including, without limitation, costs of investigation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments), directly or indirectly (a) by or on behalf of any person arising from any cause whatsoever in connection with transactions contemplated hereby or otherwise in connection with the Project, the Indenture or the Bonds, or the execution or amendment of any document relating thereto; (b) arising from any cause whatsoever in connection with the approval of financing for the Project or the making of the Indenture or the Loan or otherwise, including without limitation, any advances of the Indenture or the Loan or any failure of the Trustee to make any advance thereunder; (c) arising from any act or omission of the Owner or any of its agents, servants, employees or licensees, in connection with the Indenture or the Project; (d) arising in connection with the issuance and sale, resale or reissuance of any vote, bond, including any secondary market transaction with respect thereto, or any certifications or representations made by any person other than the City or the party seeking indemnification in connection therewith and the carrying out by the Owner of any of the transactions contemplated by the Loan Agreement, the Indenture and this Regulatory Agreement; (e) arising in connection with the operation and management of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, or construction of, the Project or any part thereof; and (f) arising out of or in connection with the exercise by the City or the Lender of their powers or duties under the Loan Agreement, the Indenture, this Regulatory Agreement or any other agreements in connection therewith to which either of them is a party; provided, however, that this provision shall not require the Owner to indemnify (i) the Lender from any claims, costs, fees, expenses or liabilities arising from the negligence or willful misconduct of the Lender, or (ii) the City for any claims, costs, fees, expenses or liabilities arising solely from the willful misconduct of the City. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Owner, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the engagement of counsel selected by the Indemnified Party; and the Owner shall assume the payment of all reasonable fees and expenses related thereto (provided however that if the Indemnified Party is the City, the selection of the counsel rests in the sole discretion of the City Attorney and the

Owner shall assume the payment of all attorneys' fees and expenses related thereto), with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Notwithstanding the foregoing, no indemnification obligation shall give rise to an obligation to pay principal and interest in the Loan, which is not otherwise set forth in the Indenture, the Loan Agreement, the Bonds or any other agreement relating to the Bonds.

Additionally, the Owner also shall pay and discharge and shall indemnify and hold harmless the City and the Lender from (i) any lien or charge upon payments by the Owner to the City and the Lender hereunder and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the City or the Lender shall give prompt notice to the Owner, and the Owner shall have the sole right and duty to assume, and will assume, the defense thereof, including the engagement of counsel approved by the Indemnified Party, and the payments of all reasonable fees and expenses related thereto, provided that if the Indemnified Party is the City, the selection of counsel rests in the sole discretion of the City Attorney, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. If a potential conflict exists between Owner's defense and the interests of an Indemnified Party, then such Indemnified Party shall have the right to engage separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Owner shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding any transfer of the Project to another Owner in accordance with the provisions of Section 11 of this Regulatory Agreement, the Owner shall remain obligated to indemnify the City pursuant to this Section 8 if such subsequent Owner fails to so indemnify the City, unless at the time of transfer the City has consented to the transfer to the extent such consent is required hereunder.

The provisions of this Section 8 shall survive the term of the Bonds and this Regulatory Agreement including the terminating of this Regulatory Agent pursuant to the second paragraph of Section 12 herein.

The obligations of the Owner under this Section are independent of any other contractual obligation of the Owner to provide indemnity to the Indemnified Parties or otherwise, and the obligation of the Owner to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Owner. The Indemnified Parties shall be entitled simultaneously to seek indemnity under this Section and any other provision under which they are entitled to indemnification.

In addition thereto, the Owner will pay upon demand all of the fees and expenses paid or incurred by the Indemnified Parties in enforcing the provisions hereof.

9. Consideration. The City has issued the Bonds and made the Loan to provide funds for the purpose of financing the Project, all for the purpose, among others, of inducing the Owner acquired, rehabilitated, equip and operate the Project. In consideration of the making of the Loan by the City, the Owner has entered into this Regulatory Agreement and has agreed to restrict the use of the Project on the terms and conditions set forth herein.

10. Reliance. The City and the Owner hereby recognize and agree that the representations, warranties, covenants and agreements set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds, and in the Tax Exempt status of the interest on the Bonds. In performing its duties and obligations hereunder, the City may rely upon statements and certificates of the Owner, the Low Income Tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the City may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City hereunder in good faith and in conformity with such opinion.

11. Sale or Transfer of the Project. The Owner intends to hold the Project for its own account, has no current plans to sell, transfer or otherwise dispose of the Project, (except in accordance with the option in Section 9.6 of the Owner's Governing Agreement and Right of First Refusal Agreement described in the Owner's Governing Agreement ) and, except as otherwise provided herein, hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof (other than for individual tenant use as contemplated hereunder or pursuant to the aforementioned Buyout Option and Right of First Refusal Agreement) or interest therein, including any interest in the Owner, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld, and receipt by the City of (i) evidence satisfactory to the City that the Owner's purchaser or transferee has assumed in writing and in full, the Owner's duties and obligations under this Regulatory Agreement, (ii) an opinion of counsel of the transferee that the transferee has duly assumed the obligations of the Owner under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee, (iii) evidence acceptable to the City that either (A) the purchaser or assignee has experience in the ownership, operation and management of rental housing projects in the City such as the Project without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects, or (B) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subparagraph (A) above or (C) if the purchaser or assignee does not have management experience, the City may cause the Program Administrator to provide on-site training in program compliance if the City determines such training is necessary, (iv) evidence satisfactory to the City that no event of default exists under this Regulatory Agreement, the Loan Agreement or any document related to the Loan, and payment of all fees and expenses of the City and the Trustee due under any of such documents is current, and (v) an opinion of Tax Counsel to the effect that such transfer will not, in itself, cause interest on the Bonds to become includable in the gross income of the recipients thereof for federal income tax purposes except to the extent held by a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 11 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Regulatory Agreement.



Nothing in this Section 11 shall affect any provision of any other document or instrument between the Owner and any other party which requires the Owner to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Not less than sixty (60) days prior to consummating any sale, transfer or disposition of any interest in the Project, the Owner shall deliver to the City a notice in writing explaining the nature of the proposed transfer and providing relevant information regarding the proposed transfer.

Notwithstanding the foregoing, the provisions of this Section 11 shall not apply to the transfer of all or any portion of (a) the limited partner interest of the Investor Limited Partner in the Owner (which is instead subject to the term of Section 7(i), (b) the Managing General Partner or General Partner interest to an affiliate of the Managing General Partner or General Partner; and (c) the withdrawal of General Partner from the Owner pursuant to the terms of the Governing Agreement.

The foregoing notwithstanding, the Project may be transferred pursuant to a foreclosure, exercise of power of sale or deed in lieu of foreclosure or comparable conversion under the Deed of Trust without the consent of the City or compliance with the provisions of this Section 11.

12. Term. Subject to the following paragraph of this Section 12, Section 8 hereof and any other provision expressly agreed herein to survive the termination of this Regulatory Agreement, this Regulatory Agreement and all of the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect through the Expiration of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of (i) involuntary noncompliance with the provisions of this Regulatory Agreement caused by events such as fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date, which prevents the City from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, or transfer of title in the Project deed in lieu of foreclosure, or condemnation or a similar event, but only if, in case of the events described in either clause (i) or (ii) above, within a reasonable period, either the Bonds are paid in full or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure, exercise of power of sale, or assignment of leasehold interest in the Project in lieu of foreclosure or a similar event, the Owner or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Owner hereby agrees that, following any foreclosure, exercise of power of sale, transfer of title by deed in lieu of foreclosure or similar event, neither the Owner nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provisions of this Regulatory Agreement to the contrary, this entire Regulatory Agreement, or any of the provisions or sections hereof, may be terminated upon agreement by the City and the Owner subject to compliance with any of the provisions contained in this Regulatory Agreement only if there shall have been received by the City an opinion of Tax Counsel that such termination will not adversely affect the Tax - Exempt status of the interest on the Bonds or the exemption from State personal income taxation of the interest on

the Bonds. The Owner shall provide written notice of any termination of this Regulatory Agreement to the City in the event of the occurrence of any of the events described in clause (i) above.

Upon the expiration or termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of said expired or terminated terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

13. Covenants to Run With the Land. The Owner hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire except those terms which are expressly intended to survive after termination. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. No breach of any of the provisions of this Regulatory Agreement shall defeat or render invalid the lien of a mortgage made in good faith and for value encumbering the Site.

14. Burden and Benefit. The City and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The City and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

15. Uniformity: Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Site.

16. Enforcement. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of sixty (60) days the "Cure Period" after written notice thereof shall have been given by the City to the Owner and the Investor Limited Partner (and a copy of such notice shall also be given to the Trustee, provided however that the failure of the City to provide such copy to the Trustee shall have no effect on the sufficiency of the notice to the Owner), the City may, as its sole option, extend the Cure Period (provided, however, that the City may at its sole option extend such period if the default is of the nature which would reasonably require more than 60 days to cure and if the Owner provides the City, if requested by the City, with an opinion of Tax Counsel to the effect that such extension will not adversely affect the Tax

Exempt Status of interest on the Bonds). Upon the expiration of the Core Period, as the same may be extended or aforesaid, then the City may declare an "event of default" to have occurred hereunder, and, subject to the provisions of the Loan Agreement, may take any one or more of the following steps:

(a) by mandamus or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder; or

(b) have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the Project; or

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder, subject, however, to those limits on exercising remedies set forth in Section 7.2 of the Loan Agreement.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the occurrence of an event of default under this Regulatory Agreement shall not be deemed, under any circumstances whatsoever, to be a default under the Security Instrument except as may be otherwise specified in the Security Instrument.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the City agrees that any cure of any default made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

17. Recording and Filing. The Owner shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the City and County of San Francisco and in such other places as the City may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

18. Payment of Fees. Notwithstanding any prepayment of the Loan Agreement and notwithstanding a discharge of the Loan Agreement or the Bonds, the Owner shall continue to pay the City's annual administrative fee as calculated and described below. Upon the occurrence of an event of default hereunder, the Owner shall continue to pay to the City compensation for any services rendered by any of them hereunder and reimbursement for all expenses incurred by it in connection therewith.

The Owner shall pay to the City (i) on the Closing Date, an initial issuance fee of \$[217,500] (which is equal to one quarter of one percent (0.25%) of the maximum principal amount of the Bonds) and (ii) an annual administrative fee not to exceed one eighth of one percent (0.125%) of the principal amount of the Bonds then outstanding, but no less than \$2,500, commencing on the Closing Date and thereafter on each anniversary date of the Closing Date thereafter during the term of this Regulatory Agreement; provided, however, notwithstanding the foregoing, the first installment of the annual administrative fee due on the Closing Date is \$[ ].

In case any action at law or in equity, including an action for declaratory relief, is brought against the Owner to enforce the provisions of this Regulatory Agreement, the Owner agrees to pay reasonable attorney's fees and other reasonable expenses incurred by the City, the Lender, the Trustee, CDLAC and/or the Program Administrator in connection with such action.

19. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California.

20. Amendments. To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the City, the Trustee and the Owner, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement which must be complied with in order to maintain the Tax-Exempt status of interest on the Bonds, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements. Otherwise, this Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the City and County of San Francisco, California provided that any amendment to the CDLAC Requirements shall also be subject to the consent of CDLAC, and provided further, that any amendment to Sections 3 and 4 thereof shall require an opinion of Tax Counsel filed with the City, the Trustee, the Lender and the Owner, to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds.

21. City Contracting Provisions. The Owner covenants and agrees to comply with the provisions set forth in Exhibit H to this Regulatory Agreement, which is incorporated in and made a part of this Regulatory Agreement by this reference.

22. Notice. All notices, certificates or other communications shall be sufficiently given and shall be deemed given on the date personally delivered, or given by telecopier (with proof of transmission and promptly confirmed by mail in the manner described under this Section), or on the second day following the date on which the same have been mailed by first class mail, postage prepaid or the day following delivery by a recognized overnight delivery service, addressed as follows:

If to the City:	City and County of San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place, Room 316 San Francisco, California 94102 Attention: City Controller
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With copies to: (None of which copies shall constitute notice)	City and County of San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place, Room 140 San Francisco, California 94102 Attention: City Treasurer
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City and County of San Francisco  
Mayor's Office of Housing and Community  
Development  
1 South Van Ness Avenue, 5th Floor  
San Francisco, California 94103  
Attention: Director

Office of the City Attorney  
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234  
San Francisco, California 94102  
Attention: Finance Team

City and County of San Francisco  
Office of Public Finance  
City Hall, 1 Dr. Carlton B. Goodlett Place  
Room 336  
San Francisco, CA 94102  
Attention: Finance Team

If to the Owner:

1064 Mission, L.P., a California limited partnership  
c/o Episcopal Community Services of San Francisco  
165 8<sup>th</sup> Street  
San Francisco, CA 94103

c/o Mercy Housing California  
1256 Market Street  
San Francisco, CA 94102

With a copy to (which copy  
shall not constitute notice):

Gubb & Barshay, LLP  
505 14th Street, Suite 300  
Oakland, CA 94612  
Attention: Scott Barshay, Esq.

If to the Investor Limited  
Partner:

NEF Assignment Corporation  
c/o National Equity Fund  
500 S. Grand Avenue, Suite 2300  
Los Angeles, CA 90071  
Attention: Regional Manager

With a copies to (which copies shall not constitute notice):

NEF Assignment Corporation  
c/o National Equity Fund  
One SW Columbia Street, Suite 500  
Portland, OR 97204  
Attention: VP, Project Management

Squire Patton Boggs (US), LLP  
2000 Huntington Center  
41 South High Street  
Columbus, OH 43215  
Attention: Tom Kibbey, Esq.

If to the Lender:

JPMorgan Chase Bank, N.A.  
c/o Chase Community Development Banking  
560 Mission Street, 3rd Floor  
San Francisco, CA 94105  
Attention: James Vossoughi

With a copy to (which copy shall not constitute notice):

JPMorgan Chase Bank, N.A.  
Legal Department  
Mail Code: NY1-R-66  
237 Park Avenue, 12th Floor  
New York, NY 10017-3140  
Attention: Michael A. Zients, Executive Director and Assistant General Counsel

If to the Trustee:

U.S. Bank National Association  
One California Street, Suite 1000  
Mail Code: SF-CA-SFCT  
San Francisco, California 94111  
Attention: Andrew Fung

With a copy to (which copy shall not constitute notice):

Dorsey & Whitney, LLP  
600 Anton Boulevard, Suite 2000  
Costa Mesa, CA 92626  
Attention: Dennis Wong, Esq.

Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

23. Interpretation; Severability. The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

25. Multiple Counterparts. This Regulatory Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

26. Third-Party Beneficiaries. The parties to the Regulatory Agreement recognize and agree that the terms of this Regulatory Agreement and the enforcement of those terms are entered into for the benefit of various parties, including CDLAC. The parties hereto acknowledge that each of the Lender and the Owner is a third party beneficiary of this Regulatory Agreement. CDLAC shall accordingly have contractual rights in this Regulatory Agreement and shall be entitled (but not obligated) to enforce, in accordance with Section 16 hereof, the terms hereof and the terms of the CDLAC Resolution. In addition, CDLAC is intended to be and shall be a third-party beneficiary of this Regulatory Agreement. Notwithstanding the above, CDLAC shall be entitled solely to enforce the terms of the CDLAC Resolution, and any enforcement of the terms and provisions of the CDLAC Resolution by CDLAC shall not adversely affect the interests of the Lender, and shall otherwise be subject to the terms, conditions and limitations otherwise applicable to the enforcement of remedies under this Regulatory Agreement.

Pursuant to Section 52080(k) of the Housing Law, the provisions of Sections 4(a) and Section 6 hereof may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Owner's failure to comply with that Section.

27. CDLAC Requirements. In addition to the other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 2 through 6 hereof, the Owner hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 27, as follows:

(a) The Owner shall comply with CDLAC Resolution No. \_\_\_\_\_ adopted on October 16, 2019, attached hereto as Exhibit F (the "CDLAC Resolution") and the CDLAC conditions set forth in Exhibit A thereto (collectively the "CDLAC Requirements"), which conditions are incorporated herein by reference and made a part hereof.

(b) The Owner acknowledges that the City shall monitor the Owner's compliance with the terms of the CDLAC Requirements. The Owner will cooperate fully with the City in connection with such monitoring and reporting requirements as provided herein. Compliance with the terms of the CDLAC Requirements not contained within this Regulatory Agreement, but referred to in the CDLAC Requirements are the responsibility of the Owner to report to the City.

(i) The Owner will prepare and submit to the City a Certificate of CDLAC Program Compliance pursuant to the terms of the CDLAC Requirements. The Owner acknowledges that the Owner will prepare and submit to the City, not later than January 1 of each year, until the Owner has submitted to the City and CDLAC a Completion Certificate, and on January 1 every three (3) years thereafter until the end of the term of the CDLAC Requirements,

a Certificate of CDLAC Program Compliance in substantially the form attached hereto as Exhibit G, executed by an Authorized Owner Representative.

(ii) The Owner shall prepare and deliver an "On-going Compliance Self-Certification" form pursuant to the terms of the CDLAC Requirements. The Owner acknowledges that the Owner will prepare and submit to the City, not later than January 1 of each year until the Owner has submitted to the City and CDLAC a Completion Certificate, and on March 1 every three (3) years thereafter until the end of the term of the CDLAC Requirements, a Self-Certificate form in the form provided by CDLAC.

(iii) Within thirty (30) days following the completion of the Project, the Owner will prepare and submit to the City, the Trustee, CDLAC and the Lender, a Completion Certificate, executed by an Authorized Owner Representative, certifying among other things to the substantial completion of the Project.

(c) Except as otherwise provided in Section 12 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date (55) fifty-five years after the date on which at least 50% of the units in the Project are first occupied or such later date as the Qualified Project Period shall begin, as required by the CDLAC Requirements.

(d) The Owner shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the issuer of the Bonds, (iii) any change in the name of the Project or the Project manager, (iv) any default under the Indenture, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Bonds and the income and rental requirements as provided in this Regulatory Agreement and the CDLAC Requirements, or (v) termination of this Regulatory Agreement.

(e) CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Requirements to the Owner after the Closing Date, at any time, that are not more restrictive than the original CDLAC Requirements; provided however, that, with the prior written consent of the Lender, which will not be unreasonably withheld: (i) any changes in the terms and conditions of the CDLAC Requirements prior to recordation against the Project in the real property records of the County of San Francisco, California, of a regulatory agreement between the Owner and CTCAC (the "CTCAC Regulatory Agreement") shall be limited to such changes as are necessary to correct any factual errors or to otherwise conform the CDLAC Requirements to any change in facts or circumstances applicable to the Owner or the Project; and (ii) after recordation of the CTCAC Regulatory Agreement, any changes in the terms and conditions of the CDLAC Requirements shall be limited to such changes as are necessary to conform Items 1, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and/or 37 of Exhibit A to the CDLAC Requirements to any change in terms and conditions requested by the Owner and approved by CDLAC. The Owner shall record or cause to be recorded in the real property records of the County of San Francisco, California, an amendment to this Regulatory Agreement containing such revised CDLAC Requirements, executed by the parties hereto or their successor in title and pay any expenses in connection therewith. The Owner shall provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Requirements.



28. California Debt and Advisory Commission Reporting Requirements.

No later than January 31 of each calendar year (commencing January 31, 2020), the Owner, on behalf of the City, agrees to provide the California Debt and Investment Advisory Commission, by any method approved by such Commission, with a copy to the City, the annual report information required by Section 8855(k)(1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Bonds are no longer outstanding or (ii) the proceeds of the Bonds and the Loan have been fully spent.

[Signatures appear on next page]

IN WITNESS WHEREOF, the City and the Owner have executed this Regulatory Agreement by their duly authorized representatives, all as of the date first written hereinabove.

CITY AND COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_,  
[Acting] Director, Mayor's  
Office of Housing and Community  
Development

Approved as to Form:  
DENNIS J. HERRERA  
City Attorney

By \_\_\_\_\_  
Heidi Gewertz  
Deputy City Attorney

[Signatures continue on following page.]

OWNER:

1064 Mission, L.P.,  
a California limited partnership

By: 1064 Mission LLC,  
a California limited liability company,  
its managing general partner

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

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

By: Mercy Housing 1064 Mission LLC,  
a California limited liability company,  
a general partner

By: Mercy Housing Calwest,  
a California nonprofit public benefit  
corporation,  
its sole member/manager

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

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
 (Print Name of Notary Public)

personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
 Signature of Notary Public

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> Individual <input type="checkbox"/> Corporate Officer _____ Title(s)	_____ Title Or Type Of Document
<input type="checkbox"/> Partner(s) <input type="checkbox"/> Limited <input type="checkbox"/> General <input type="checkbox"/> Attorney-In-Fact <input type="checkbox"/> Trustee(s) <input type="checkbox"/> Guardian/Conservator <input type="checkbox"/> Other: _____	_____ Number Of Pages
Signer is representing: Name Of Person(s) Or Entity(ies)	_____ Date Of Documents

_____	_____
_____	Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
 (Print Name of Notary Public)

personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
 Signature of Notary Public

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> Individual <input type="checkbox"/> Corporate Officer  _____ Title(s)	_____ Title Or Type Of Document
<input type="checkbox"/> Partner(s) <input type="checkbox"/> Limited <input type="checkbox"/> General <input type="checkbox"/> Attorney-In-Fact <input type="checkbox"/> Trustee(s) <input type="checkbox"/> Guardian/Conservator <input type="checkbox"/> Other: _____	_____ Number Of Pages
Signer is representing: Name Of Person(s) Or Entity(ies)	_____ Date Of Documents

<hr/> <hr/> <hr/>	Signer(s) Other Than Named Above
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**EXHIBIT A**

**LEGAL DESCRIPTION OF THE SITE**

Real property in the City of San Francisco, County of San Francisco, State of California, described as follows:

A-1

4300



**EXHIBIT B**

**INCOME CERTIFICATION FORM**

A current version of the CTCAC form may be downloaded from the State Treasurer's website at the following link: <http://www.treasurer.ca.gov/ctcac/compliance/tic.pdf>.

B-1

EXHIBIT C

COMPLETION CERTIFICATE

CITY AND COUNTY OF SAN FRANCISCO  
Mayor's Office of Housing and Community Development  
1 South Van Ness Avenue, 5th Floor  
San Francisco, California 94103

*Re: City and County of San Francisco Multifamily Housing Bonds (1064 Mission Street Permanent Supportive Housing), Series 2020A*

The undersigned (the "Owner") hereby certifies that all aspects of the construction of the Project (as that term is used in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of January 1, 2020, by and between the City and County of San Francisco and the Owner (the "Regulatory Agreement")) were substantially completed and the Project was fully available for occupancy by tenants in the Project as of \_\_\_\_\_, 20\_\_ (the "Completion Date"). Capitalized terms not defined herein shall have the meaning ascribed to them under the Regulatory Agreement.

The undersigned hereby certifies that:

- (a) the aggregate amount disbursed on the Loan to date is \$ \_\_\_\_\_;  
and
- (b) all amounts disbursed on the Loan have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed on the Loan has been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and
- (c) as shown on the attached sheet (showing the breakdown of expenditures for the Project and the source of the funds which were used to pay such costs), in compliance with Subsection 2(h) of the Regulatory Agreement at least ninety-seven percent (97%) of the amounts disbursed on the Loan have been applied to pay or reimburse the Owner for the payment of Qualified Project Costs. Furthermore, less than twenty-five percent (25%) of the amounts disbursed on the Loan, exclusive of amounts applied to pay the costs of issuing the Bonds, have been applied to pay or reimburse the Owner for the cost of acquiring land.

[Signatures appear on the next page.]

Date: \_\_\_\_\_, 20\_\_

OWNER:

1064 Mission, L.P.,  
a California limited partnership

By: 1064 Mission LLC,  
a California limited liability company,  
its managing general partner

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

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

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

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

By: Mercy Housing 1064 Mission LLC,  
a California limited liability company,  
a general partner

By: Mercy Housing Calwest,  
a California nonprofit public benefit  
corporation,  
its sole member/manager

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

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

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

EXHIBIT D

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Project Name: 1064 Mission Street Permanent Supportive Housing

CDLAC Application Number(s):

CDLAC Resolution Number(s):

Property Address: 1064 Mission Street, San Francisco, CA 94110

Project Completion Date (if completed, otherwise mark N/A): \_\_\_\_\_

Name of Obligation: City and County of San Francisco Multifamily Housing Revenue Bonds (1064 Mission Street Permanent Supportive Housing), Series 2020A

The undersigned, being the authorized representatives of 1064 Mission, L.P., a California limited partnership (the "Owner"), hereby certifies that he/she has read and is thoroughly familiar with the provisions of the various documents associated with the Owner's participation in the City and County of San Francisco (the "City") Multifamily Housing Program, such documents including:

1. the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of January 1, 2020 (the "Regulatory Agreement"), between the Owner and the City; and
2. the Loan Agreement, dated as of January 1, 2020, among the City, the Trustee and the Owner.

The undersigned further certifies that:

A. There have been no changes to the ownership entity, principals or property management of the Project since the Bonds were issued and delivered, or since the last certification was provided (as applicable), except as described below:

(If so please attach a request to revise the CDLAC Resolution, noting all pertinent information regarding the change, otherwise state "NONE")

If Project has not yet been placed in service, mark N/A for the balance of the items below:

B. During the preceding twelve (12) months (i) such Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the City and (ii) \_\_\_ of the units in the Project were occupied by Qualified Tenants (minimum of one hundred percent (100%), excluding one manager's unit).

C. As of the date of this Certificate, the following percentages of completed residential units in the Project (i) are occupied by Qualified Tenants, or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a 1064 Mission Street Permanent Supportive Housing Qualified Tenant vacated such unit, as indicated below:

D-1

Certificate of Continuing Program Compliance  
1064 Mission Permanent Supportive Housing

TOTAL UNITS:

Occupied by Low Income Tenants:

Studio: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

1 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

2 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

3 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

Occupied by Very Low Income Tenants:

Studio: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

1 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

2 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

3 bedroom units: \_\_\_\_\_ Unit Nos. \_\_\_\_\_

Total percentage occupied by Qualified Tenants: \_\_\_\_\_ (minimum of one hundred percent (100%), excluding one manager's unit)

Held vacant for occupancy continuously since last occupied by a Low Income Tenant:

\_\_\_\_\_%; Unit Nos. \_\_\_\_\_

Held vacant for occupancy continuously since last occupied by a Very Low Income Tenant:

\_\_\_\_\_%; Unit Nos. \_\_\_\_\_

It hereby is confirmed that each tenant currently residing in a unit in the Project has completed an Income Certification Form in the form approved by the City and that since commencement of the Qualified Project Period, not less than all of the occupied units (excluding the manager's unit) in the Project have been rented to (or are vacant and last occupied by) Qualified Tenants. The undersigned hereby certifies that the Owner is not in default under any of the terms and provisions of the above documents.

D. The units occupied by Qualified Tenants are of similar size and quality to other units and are dispersed throughout the Project.

E Select appropriate certification: [No unremedied default has occurred under this Regulatory Agreement, the Bonds, the Loan Agreement or the Security Instrument.] [A default has occurred under the \_\_\_\_\_. The nature of the default and the measures being taken to remedy such default are as follows: \_\_\_\_\_.]

F. There has been no change of use for the Project, except as follows: (please describe if any, or otherwise indicate "NONE")

G. Select appropriate certification: The undersigned hereby certifies that the Project [has satisfied all] [except as described below, has satisfied all] of the requirements memorialized in the Exhibit A of the CDLAC Resolution, a copy of which is attached hereto (i.e. qualifying project completion, qualifying depreciable asset purchase, qualifying loan originations, the use of public funds, manager units, income rent restrictions, sustainable building methods, etc., as applicable), and thus has achieved all public benefit requirements (excluding service amenities) as presented to CDLAC.

[Describe any requirements not satisfied: \_\_\_\_\_]

H. As captured in Exhibit A of the CDLAC Resolution, the Project has committed to and is currently providing the following service amenities for a minimum of ten (10) years, on a regular and ongoing basis, which are provided free of charge (with the exception of day care services): [Confirm]

Please check the services that apply or write N/A where appropriate:

- \_\_\_\_\_ After-school Programs
- \_\_\_\_\_ Educational, health and wellness, or skill building classes
- \_\_\_\_\_ Health and Wellness services and programs (not group classes)
- \_\_\_\_\_ Licensed Childcare provided for a minimum of twenty (20) hours per week (Monday-Friday)
- \_\_\_\_\_ Bona-Fide Service Coordinator/ Social Worker

1) For this reporting period, attached is evidence (i.e. MOUs, contracts, schedules, calendars, flyers, sign-up sheets, etc.) confirming that the above listed services are being provided and have met the requirements of Exhibit A of the CDLAC Resolution.

2) If any of the above services requirements were not met, what corrective action is being taken to comply?

(Please also attach the completed project sponsor certification form as provided in the CDLAC Resolution)

(Please also attach the completed Occupancy and Rent Information form attached hereto)

I. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief, and the undersigned acknowledges and agrees that the City will be relying solely on the foregoing certifications and accompanying documentation, if any, in making its certification to CDLAC pursuant to Section 5144 of the CDLAC regulations (Division 9.5 of Title 4 of the California Code of Regulations), and agrees to provide to the City such documentation or evidence, in support of the foregoing certifications, as the City or CDLAC may request.

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to them in the Regulatory Agreement.

Date: \_\_\_\_\_, 20\_\_

OWNER:

1064 Mission, L.P.,  
a California limited partnership

By: 1064 Mission LLC,  
a California limited liability company,  
its managing general partner

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

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

By: Mercy Housing 1064 Mission LLC,  
a California limited liability company,  
a general partner

By: Mercy Housing Calwest,  
a California nonprofit public benefit  
corporation,  
its sole member/manager

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

D-4

Certificate of Continuing Program Compliance  
1064 Mission Permanent Supportive Housing

D-5

Certificate of Continuing Program Compliance  
1064 Mission Permanent Supportive Housing

4308



EXHIBIT E

CERTIFICATE AS TO COMMENCEMENT OF QUALIFIED PROJECT PERIOD

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:  
City and County of San Francisco  
Mayor's Office of Housing and Community Development  
1 South Van Ness Avenue, 5th Floor  
San Francisco, CA 94103  
Attention: Director

  \$[87,000,000]  
  City and County of San Francisco  
  Multifamily Housing Revenue Bonds  
  (1064 Mission Street Permanent Supportive Housing),  
  Series 2020A

The undersigned, being the authorized representative(s) of 1064 Mission, L.P., a California limited partnership, hereby certifies that: (complete blank information):

Ten percent (10%) of the dwelling units in the Project financed in part from the proceeds of the above-captioned Bonds were first occupied on \_\_\_\_\_;

Fifty percent (50%) of the dwelling units in the Project financed in part from the proceeds of the above-captioned Bonds were first occupied on \_\_\_\_\_.

[Signatures appear on the next page.]

Date: \_\_\_\_\_, 20\_\_\_\_

OWNER:

1064 Mission, L.P.,  
a California limited partnership

By: 1064 Mission LLC,  
a California limited liability company,  
its managing general partner

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

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

By: Mercy Housing 1064 Mission LLC,  
a California limited liability company,  
a general partner

By: Mercy Housing Calwest,  
a California nonprofit public benefit  
corporation,  
its sole member/manager

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

EXHIBIT F  
CDLAC RESOLUTION

[See Attached.]

**EXHIBIT G**  
**CERTIFICATE OF COMPLIANCE (CDLAC RESOLUTION)**

Project Name: 1064 Mission Street Permanent Supportive Housing  
*original project name as well*

Name of Bond Issuer: City and County of San Francisco

CDLAC Application No.: \_\_\_\_\_

Pursuant to Section 13 of Resolution No. \_\_\_\_\_ (the "CDLAC Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on \_\_\_\_\_, I, \_\_\_\_\_, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the CDLAC Resolution.

I further certify that I have read and understand Section 3 of the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in Exhibit A of the CDLAC Resolution shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy (as further explained in Section 13 of the Resolution).

*Please check or write N/A to the items listed below:*

\_\_\_\_\_ The project is currently in the Construction or Rehabilitation phase.

\_\_\_\_\_ The project has incorporated the minimum specifications into the project design for all new construction and rehabilitation projects as evidenced by the attached applicable third party certification (HERS Rater, Green Point Rater or US Green Building Council). For projects under construction or rehabilitation, the information is due following receipt of the verification but in no event shall the documentation be submitted more than two (2) years after the issuance of Bonds.

\_\_\_\_\_ For projects that received points for exceeding the minimum requirements please attach the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate standards. The compliance form must be signed by a California Association of Building Consultants, Certified Energy Plans Examiner or HERS Rater as applicable.

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

\_\_\_\_\_  
Date

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

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

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

G-1

Certificate of Compliance (CDLAC Resolution)  
1064 Mission Apartments

## EXHIBIT H

### CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Regulatory Agreement, referred to in this Exhibit as "Agreement," as if set forth in the text thereof. Capitalized terms used but not defined in this Appendix shall have the meanings given in the Agreement.

1. Nondiscrimination; Penalties.

(a) *Non Discrimination in Contracts.* The Owner shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. The Owner shall incorporate by reference in any subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require any subcontractors to comply with such provisions. The Owner is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) *Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2.* The Owner does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) *Condition to Contract.* As a condition to the Agreement, the Owner shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

2. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Agreement. By entering into this Agreement, the Owner confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

3. Tropical Hardwood and Virgin Redwood Ban. Under San Francisco Environment Code Section 804(b), the City urges the Owner not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require the Owner to remove from, City facilities personnel of such Owner who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled

substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

5. Compliance with Americans with Disabilities Act. The Owner shall provide the services specified in the Agreement in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

6. Sunshine Ordinance. The Owner acknowledges that this Agreement and all records related to its formation, such Owner's performance of services provided under the Agreement, and the City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

7. Limitations on Contributions. By executing this Agreement, the 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. The prohibition on contributions applies to each prospective party to the contract; each member of the Owner's board of directors; the 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 such Owner; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by such Owner. The Owner must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

8. Requiring Minimum Compensation for Covered Employees. The Owner shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. The Owner is subject to the enforcement and penalty provisions in Chapter 12P. By entering into this Agreement, the Owner certifies that it is in compliance with Chapter 12P.

9. Requiring Health Benefits for Covered Employees. The Owner shall comply with San Francisco Administrative Code Chapter 12Q. The Owner shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. The Owner is subject to the enforcement and penalty provisions in Chapter 12Q.

10. Prohibition on Political Activity with City Funds. In performing the services provided under the Agreement, the Owner shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Owner is subject to the enforcement and penalty provisions in Chapter 12G.

11. Nondisclosure of Private, Proprietary or Confidential Information. If this Agreement requires the City to disclose "Private Information" to the Owner within the meaning of San Francisco Administrative Code Chapter 12M, the Owner shall use such information consistent with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the services provided under the Agreement. The Owner is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services provided under the Agreement, the Owner may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to the Owner, such information must be held by such Owner in confidence and used only in performing the Agreement. The Owner shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

12. Consideration of Criminal History in Hiring and Employment Decisions. The Owner agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement. The text of Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of the Owner's obligations under Chapter 12T is set forth in this Section. The Owner is required to comply with all of the applicable provisions of Chapter 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

The requirements of Chapter 12T shall only apply to the Owner's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco which excludes City property. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

13. Reserved.

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

15. Conflict of Interest. By entering into the Agreement, the Owner certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

16. Assignment. The services provided under the Agreement to be performed by the Owner are personal in character and neither this Agreement nor any duties or obligations may be assigned or delegated by the Owner unless first approved by the City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

17. Food Service Waste Reduction Requirements. The Owner shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the provided remedies for noncompliance.

18. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of the City and the Owner, and all parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

19. Laws Incorporated by Reference. The full text of the laws listed in this Appendix, including enforcement and penalty provisions, are incorporated into this Agreement by reference. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Appendix are available at [www.sfgov.org](http://www.sfgov.org) under "Open Gov."

20. Sugar-Sweetened Beverage Prohibition. The Owner agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

21. First Source Hiring Program. The Owner must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and the Owner is subject to the enforcement and penalty provisions in Chapter 83.

22. Prevailing Wages. Owner understands and agrees that all provisions of section 1770, et seq., of the California Labor Code are required to be incorporated into every contract for any public work or improvement and are hereby incorporated into this Agreement. Owner also understands and agrees that all provisions of sections 6.22E and 6.22F of the San Francisco Administrative Code are hereby incorporated into this Agreement. Owner also understands and agrees that all applicable provisions of the Davis-Bacon Act (40 U.S.C. §§3141 et seq.) are hereby incorporated into this Agreement.



EXHIBIT I

Form of Annual Monitoring Report

[See Attached]

EXHIBIT J

OPERATIONAL RULES FOR SAN FRANCISCO HOUSING LOTTERIES AND RENTAL  
LEASE UP ACTIVITIES

The Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities may be found in the current version of the Housing Preferences and Lottery Procedures Manual which is incorporated herein by this reference and may be downloaded from the Mayor's Office of Housing and Community Development website at the following link:

<https://sfmohcd.org/sites/default/files/Documents/MOH/Lottery Preferences/Lottery Preferences Manual.pdf>

J-1

Operational Rules for San Francisco  
Housing Lotteries and Rental Lease Up Activities  
1064 Mission Apartments

**EXHIBIT K**

**MARKETING AND TENANT SELECTION PLAN**

<p><b>How are utilities paid by the renter?</b></p>	<p>Renter pays own utility bills directly.</p> <p>-OR-</p> <p>Renter is charged a flat rate of \$ ___ by a third party vendor for the following utilities: _____ on a monthly basis.</p> <p>-OR-</p> <p>All utilities are paid by the building.</p>
<p><b>Other fees and/or building rules</b></p>	<p>Please list any fees for pets, mandatory insurance, bounced check, etc. here.</p>
<p><b>Contact Person</b></p>	
<p><b>Phone</b></p>	
<p><b>Email</b></p>	
<p><b>Website</b></p>	
<p><b>How to obtain an application</b></p>	
<p><b>Application deadline</b></p>	<p>_____, 5pm</p> <p>Applications must be <u>received</u> in paper form (no faxes or emails) by 5pm on the date of the deadline.</p>
<p><b>Address to which application should be delivered</b></p>	<p>Office:  Rental Manager Name:  Address:  City/State/Zip Code:  Attn:</p>
<p><b>Open House Dates (if applicable)</b></p>	<p>Date:  Time:</p> <p>Date:  Time:</p> <p>Date:  Time:</p>
<p><b>Information Session</b></p>	<p>Enter date, time and location</p>
<p><b>Lottery</b></p>	<p>Enter date, time and location</p>

	<p>(Consider working with City to rent Main Library Koret Auditorium if a larger lottery is anticipated.)</p> <p>Applicants do not need to be present at the lottery. Results will be posted to (place your web URL here) within two weeks of the lottery.</p>
Special Note(s)	

## II. Application/Selection Process and Timeline

The City and County of San Francisco's requirements for the marketing, application process, lottery process, tenant selection process and tenant screening criteria are defined by Exhibits H, I, J, & K.

[Please complete the following timeline as part of your Marketing Plan]  
Timeline of Entire Process (add info as needed)

Task Name	Date
Submittal of Marketing Plan to MOHCD	
Marketing period (3 months)	
Copy of Advertisements to required newspapers	
Applications Available to public	
Informational Workshop #1	
Informational Workshop #2	
Additional Community Outreach (if applicable)	
Application Deadline	
Lottery	
Demographic Summary of all Applicants to MOHCD	
Certificate of Preference count to MOHCD	
Application Review / Approval Process- start date	
Lease-up process / timeline	
Initial MOHCD approvals returned	
First Occupancy	
Construction start date- projected	
Project Closing- projected date	

**III. Document Review**

I/We certify that I/we and all agents involved in the process of renting affordable units have read Exhibits, H, I, J & K.

Representative (sign) \_\_\_\_\_

Representative (print) - \_\_\_\_\_

Title (print) - \_\_\_\_\_

Company (print) - \_\_\_\_\_

Date (print) - \_\_\_\_\_

**Flyer Template  
(Sample)**

**Affordable Homes for Rent in San Francisco**

Exterior Photo	Interior Photo
----------------	----------------

**3 two-bedroom + 3 three-bedroom “Below Market Rate” rental units available  
Bayside Village, 1125 Laurel Court, San Francisco**

- New Units with Modern Design + Amenities
- (2) Two-bedroom units for \_\_\_\_ available to households at or under 55% of median income
- Renter households must earn no more than the income levels listed below:
- 

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
55% of Median Income 2014	\$37,350	\$42,750	\$48,050	\$53,400	\$57,650

Applications must be received by 5pm on Friday, April 13, 2014 to Smith Rentals, 300 Church St., San Francisco, CA 94114.

Contact Smith Rentals at (415) 282-10000 or [john@smithrentals.com](mailto:john@smithrentals.com) for application and information on the units and view the full unit posting at [www.sfmohcd.org](http://www.sfmohcd.org).

Units are monitored through the San Francisco Mayor’s Office of Housing and Community Development and are subject to monitoring and other restrictions. Visit [www.sfmohcd.org](http://www.sfmohcd.org) for program information.

**Information session  
Monday, June 2, 2013, 6pm  
123 Hyde Street**

**Open House Dates**

**June 2, 5-6pm; June 12, 12-1pm; June 25, 5-6pm** All applicants are encouraged to apply. Lottery preference will be given to Residential Certificate of Preference holders\*, Displaced Tenants†, and households that live or work in San Francisco.

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\* Residential Certificate of Preference holders are households that hold a Residential Certificate of Preference under the San Francisco Redevelopment Agency’s Property Owner and Occupant Preference Program. Contact 415-701-5613 for more information.

† Displaced Tenants are those who applied to Mayor’s Office of Housing and Community Development (MOHCD) and is determined by MOHCD to qualify for 1 of 3 categories of tenants formerly residing in San Francisco and who were forced to vacate their residence.

Unit #	Bedroom Count	Bath Count	Square Feet	Floor	Rent	Income Maximum	Minimum Monthly Household Income Required	Deposit Required
E113	Studio	1	448	1	\$939	55% of AMI	\$2347.50	\$939
E114	1	1	605	1	\$1066	55% of AMI	\$2665	\$1066
E105	2	1	846	1	\$1192	55% of AMI	\$2980	\$1192



COP Postcard Template  
(sample)

Affordable Homes for Rent in San Francisco

Exterior Photo	Interior Photo

3 two-bedroom (\$rent amount)+ 3 three-bedroom (\$rent amount) rental units available at Bayside Village, 1125 Laurel Court

- Renter Households must have a minimum monthly income of \$\_\_\_\_\_
- Renter households must earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
55% of Median Income 2012	\$39,650	\$45,300	\$51,000	\$56,650	\$61,200



Side Two:  
Mayor's Office of Housing & Community Development  
1 South Van Ness, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Applications must be received by  
5pm on Friday, April 13, 2012 to:  
Makras Real Estate, 1193 Church St.  
San Francisco, CA 94114.

For more information & to apply. Contact JM Rentals  
(415) 282-8400 or victor@jmrentals.com or  
www.sfmohcd.org

**Information session**  
**Monday, June 2, 2012, 6pm**  
**123 Hyde Street**

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INDENTURE OF TRUST

by and between the

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA,  
as Issuer

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

dated as of January 1, 2020

relating to:  
\$87,000,000  
City and County of San Francisco, California  
Multifamily Housing Revenue Bonds  
(Mission Street Permanent Supportive Housing)  
Series 2020A

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## INDENTURE OF TRUST

This INDENTURE OF TRUST, dated as of January 1, 2020 (this "Indenture"), is by and between the City and County of San Francisco, a municipal corporation duly organized and existing pursuant to its charter and the laws and constitution of the State of California (herein called the "City"), and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, as Trustee hereunder (herein called the "Trustee").

### *RECITALS:*

WHEREAS, pursuant to Section 9.107 of the Charter of the City, and Article I of Chapter 43 of the City's Administrative Code and, to the extent applicable, Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the California Health and Safety Code (collectively, the "Act"), the City proposes to issue its City and County of San Francisco, California Multifamily Housing Revenue Bonds (Mission Street Permanent Supportive Housing), Series 2020A (the "Bonds"); and

WHEREAS, the proceeds of the Bonds will be used to fund a loan to 1064 Mission, L.P., a California limited partnership (the "Borrower") pursuant to the Loan Agreement, dated as of January 1, 2020 (the "Loan Agreement"), between the City and the Borrower, and as provided in the Construction Disbursement Agreement, dated as of January 1, 2020 (the "Construction Disbursement Agreement"), between the Borrower and the owner of the Bonds, all in order to provide financing for the new construction of a multifamily rental housing project known as "Mission Street Permanent Supportive Housing," consisting of 258 affordable housing units (including two managers' units), located at 1064 Mission Street in the City (the "Project"); and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the City has authorized the execution and delivery of this Indenture; and

WHEREAS, all conditions, things and acts required by the Act, and by all other laws of the State of California, to exist, have happened and have been performed in satisfaction of conditions precedent to and in connection with the issuance of the Bonds exist, have happened, and have been performed in due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to issue the Bonds for the purpose, in the manner and upon the terms herein provided; and

WHEREAS, all acts and proceedings required by law necessary to make the Bonds, when executed by the City, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligations of the City, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have

been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized.

*AGREEMENT:*

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of, and the interest and premium, if any, on, all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and for and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the owners thereof, and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the City covenants and agrees with the Trustee, for the equal and proportionate benefit of the respective registered owner or owners from time to time of the Bonds, as follows:

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall, for all purposes of this Indenture and of any indenture supplemental hereto or agreement supplemental thereto, have the meanings herein specified, as follows:

The term "Act" shall mean, collectively, Section 9.107 of the Charter of the City, Article I of Chapter 43 of the San Francisco Administrative Code of the City and County of San Francisco, and, to the extent applicable, Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the California Health and Safety Code.

The term "Administrator" shall mean the City, or any substitute or replacement administrator appointed by the City as agent of the City in the administration of the Regulatory Agreement.

The term "Agreement" or "Loan Agreement" shall mean the Loan Agreement, dated as of January 1, 2020, between the City and the Borrower, pursuant to which the City agrees to lend the proceeds of the Bonds to the Borrower, as originally executed or as it may from time to time be supplemented or amended in accordance with its terms.

The term "Authorized Amount" shall mean \$87,000,000, the authorized maximum principal amount of the Bonds.

The term "Authorized Borrower Representative" shall mean any person who at the time and from time to time may be designated as such, by written certificate furnished to the City, the Bondowner and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by any officer of the manager of the general partner of the Borrower, as applicable, which certificate may designate an alternate or alternates.

The term "Authorized City Representative" shall mean the Mayor of the City, the Director or the Deputy Director of the Mayor's Office of Housing and Community Development, or any other person designated to act in such capacity by a Certificate of the City containing the specimen signature of any of such persons which certificate may designate an alternate or alternates.

The term "Bond Counsel" shall mean (i) Jones Hall, A Professional Law Corporation and Fox Rothschild, LLP, or (ii) any attorney at law or other firm of attorneys selected by the City, of nationally recognized standing in matters pertaining to the federal tax status of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America, but shall not include counsel for the Borrower.

The term "Bond Fund" shall mean the fund by that name established pursuant to Section 5.02 hereof.

The term "Bond Proceeds Account" shall mean the account by that name established within the Construction Fund pursuant to Section 3.03 hereof.

The term "Bonds" shall mean the City and County of San Francisco, California Multifamily Housing Revenue Bonds (Mission Street Permanent Supportive Housing), Series 2020A, issued and Outstanding hereunder.

The term "Bondowner," "Holder," "holder," "Bondholder," "Owner of the Bonds," or "owner of the Bonds" shall mean the person in whose name the Bonds are registered in the Bond register maintained by the Trustee under Section 2.06.

The term "Borrower" shall mean 1064 Mission, L.P., a California limited partnership, and its successors and assigns under the provisions of Section 6.2 of the Loan Agreement and under the applicable provisions of the Construction Disbursement Agreement.

The term "Business Day" means a day of the week (but not a Saturday, Sunday, or holiday) on which the offices of Trustee are open to the public for carrying on substantially all of Trustee's business functions.

The term "Certificate of the City" shall mean a certificate of the City signed by an Authorized City Representative.

The term "Certified Resolution" shall mean a copy of a resolution of the City, certified by the Clerk of the Board of Supervisors of the City, to have been duly adopted by the City and to be in full force and effect on the date of such certification.

The term "City" shall mean the City and County of San Francisco, California, a municipal corporation, duly organized and existing under its charter and the laws and constitution of the State of California, the issuer of the Bonds hereunder, and its successors and assigns.

The term "Closing Date" shall mean January [ ], 2020, the date of initial delivery of the Bonds and funding of the Initial Disbursement.

The term "Code" or "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, and with respect to a specific section thereof, such reference shall be deemed to include (a) the regulations promulgated by the United States Department of the Treasury under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code, and (d) the regulations promulgated under the provisions described in (b) and (c).

The term "Construction Disbursement Agreement" shall mean the Construction Disbursement Agreement, dated as of January 1, 2020, between the Bondowner and the Borrower, as originally executed or as it may from time to time be supplemented or amended in accordance with its terms.

The term "Construction Fund" shall mean the fund by that name established pursuant to Section 3.03 hereof.



The term "Debt Service" means the interest payable on the Bonds on each Interest Payment Date and the interest and principal payable on the Maturity Date.

The term "Deed of Trust" shall mean the Construction Leasehold Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, executed by the Borrower in favor of the City, for the purpose of securing the obligations of the Borrower under the Loan Documents, as such deed of trust may be originally executed or as from time to time supplemented or amended.

The term "Default Rate" means the interest rate then in effect on the Bonds plus four percent (4%), not to exceed the Maximum Rate permitted by law.

The term "Disbursed Amount" means the portion of the Bonds funded and Outstanding from time to time, as indicated on the Bonds and in the records of the Trustee.

The term "Equity Account" shall mean the account by that name established within the Construction Fund pursuant to Section 3.03 hereof.

The term "Event of Default" as used herein other than with respect to defaults under the Loan Agreement shall have the meaning specified in Section 7.01 hereof, and as used in the Loan Agreement shall have the meaning specified in Section 7.1 thereof.

The term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Obligation-State and Local Government Series that is acquired in accordance with applicable regulations of the United States Department of the Treasury, Bureau of Public Debt, or (d) the investment is the Local Agency Investment Fund of the State of California, but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States.

The term "Indenture" shall mean this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any supplemental indenture entered into pursuant to the provisions hereof.

The term "Initial Disbursement" means the initial advance of the proceeds of the Bonds on the Closing Date, in the amount specified to the Trustee on the Closing Date.

The term "Initial Equity Deposit" means all or a portion of the initial installment of low-income housing tax credit equity on the Closing Date, in the amount specified to the Trustee on the Closing Date.

The term "Interest Payment Date" shall mean the tenth calendar day of each month, commencing [January] 10, 2020.

The term "Investment Securities" shall mean any of the following (including any funds comprised of the following, which may be funds maintained or managed by the Trustee and its affiliates), but only to the extent that the same are acquired at Fair Market Value:

(a) direct and general obligations of the United States of America;

(b) obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are fully unconditionally guaranteed by the full faith and credit of the United States of America;

(c) senior debt obligations of the Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns;

(d) senior debt obligations of the Federal National Mortgage Association, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns;

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

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

(g)(i) tax-exempt obligations rated in the highest short-term rating category by Moody's or S&P, or (ii) shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the federal Investment Company Act of

1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of "Aaa"/"AAA" by Moody's or S&P (or if a new rating scale is implemented, the equivalent rating category given by the applicable rating agency (i.e., Moody's or S&P ) for that general category of security), for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Trustee or its affiliates receive a fee for investment advisory or other services to the fund;

(h) the Pooled Investment Fund of the City; or

(i) any other investments approved in writing by the Bondowner with the written consent of the City.

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

The term "Issuance Costs" means all costs and expenses of issuance of the Bonds, including, but not limited to: (a) purchaser's discount and fees; (b) counsel fees, including bond counsel and Borrower's counsel, as well as any other specialized counsel fees incurred in connection with the issuance of the Bonds or the Loan; (c) the City's fees and expenses incurred in connection with the issuance of the Bonds, including fees of any counsel or advisor to the City, and the City administrative fee for processing the request of the Borrower to issue the Bonds; (d) fees of the Bondowner and its counsel; (e) Trustee's fees and Trustee's counsel fees; (f) paying agent's and certifying and authenticating agent's fees related to issuance of the Bonds; (g) accountant's fees related to issuance of the Bonds; (h) publication costs associated with the financing proceedings; and (i) costs of engineering and feasibility studies necessary to the issuance of the Bonds.

The term "Loan" shall mean the loan of the proceeds of the Bonds made by the City to the Borrower pursuant to the Loan Agreement and the Construction Disbursement Agreement for the purpose of financing the construction by the Borrower of the Project.

The term "Loan Agreement" shall mean the Agreement, as defined herein.

The term "Loan Documents" shall have the meaning given such term in the Loan Agreement.

The term "Maturity Date" means [May 1, 2024].

The term "Maximum Rate" means 12% per annum.

The term "Moody's" means Moody's Investors Service, Inc., its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

The term "Note" means the promissory note evidencing the obligation of the Borrower to repay the Loan, in the form required by the Construction Disbursement Agreement, as amended or supplemented from time to time.

The term "Opinion of Counsel" shall mean a written opinion of counsel, who may be counsel for the City, Bond Counsel, counsel for the Trustee or counsel for the Bondowner.

The term "Outstanding," when used as of any particular time with reference to Bonds, shall, subject to the provisions of Section 11.08(e), mean all Bonds theretofore authenticated and delivered by the Trustee under this Indenture except:

(a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(b) Bonds for the payment or redemption of which moneys or securities in the necessary amount (as provided in Section 10.01) shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or the redemption date of such Bonds); and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to the terms of Section 2.05.

The term "person" shall mean an individual, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, a trust, an unincorporated organization or a government or any agency or political subdivision thereof.

The term "Principal Office" shall mean the office of the Trustee located at the address set forth in Section 11.06 hereof, or at such other place as the Trustee shall designate by notice given under said Section 11.06.

The term "Principal Payment Date" shall mean any date on which principal of the Loan is due and payable under the Note.

The term "Project" has the meaning set forth in the Recitals.

The term "Project Costs" has the meaning given such term in the Regulatory Agreement.

The term "Qualified Project Costs" shall have the meaning ascribed thereto in the Regulatory Agreement.

The term "Record Date" means, with respect to any Interest Payment Date or date for payment of the Bonds upon the redemption thereof, the calendar day of the month immediately

preceding such Interest Payment Date or date of redemption, respectively, whether or not such day is a Business Day.

The term "Redemption Date" shall mean any date designated as a date upon which Bonds are to be redeemed pursuant to this Indenture.

The term "Regulations" means the Income Tax Regulations promulgated or proposed by the Department of the Treasury pursuant to the Code from time to time or pursuant to any predecessor statute to the Code.

The term "Regulatory Agreement" shall mean the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, by and between the City and the Borrower, as in effect on the Closing Date and as thereafter amended in accordance with its terms.

The term "Reserved Rights" means those certain rights of the City under the Loan Agreement to indemnification and to payment or reimbursement of fees and expenses of the City, including the City's annual fee as well as the fees and expenses of counsel, and indemnity payments, its right to give and receive notices and to enforce notice and reporting requirements and restrictions on transfer of ownership, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorney's fees and related expenses, its right to specifically enforce the Borrower's covenant to comply with applicable federal tax law and State law (including the Act and the rules and regulations of the City), its right to receive notices under the Loan Agreement, its rights to give or withhold consent to amendments, changes, modifications and alterations to the Loan Agreement as specifically set forth herein, and to the extent not included above, the rights specifically reserved by the City under Section 5.04 of this Indenture.

The term "Responsible Officer" of the Trustee shall mean any officer of the Trustee assigned to administer its duties hereunder.

The term "Revenues" means all amounts pledged hereunder to the payment of principal of and premium, if any, and interest on the Bonds, consisting of any repayments of the Loan required or permitted to be made by the Borrower pursuant to Section 5.1(a) of the Loan Agreement and the provisions of the Note; but such term shall not include payments to the United States, the City or the Administrator pursuant to Sections 2.3, 2.4, 5.1(d), 5.1(e), 5.1(f), 6.7, 6.14(i) or 7.4 of the Loan Agreement, Sections 6.07 or 8.06 hereof or Sections 2, 8 or 18 of the Regulatory Agreement.

The term "S&P" shall mean S&P Global Ratings, or its successors and assigns or, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized rating agency designated by the City.

The term "Security Agreement" means that certain Collateral Assignment of Rights to Tax Credits and Partnership Interests of even date herewith executed by the Borrower.

The term "Sophisticated Investor" means a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or an "accredited investor" as defined in Rule 501 promulgated under the Securities Act of 1933, as amended.

The term "supplemental indenture" or "indenture supplemental hereto" shall mean any indenture hereafter duly authorized and entered into between the City and the Trustee in accordance with the provisions of this Indenture.

The term "Tax Certificate" means, collectively, (i) the Certificate as to Arbitrage executed by the City and the Borrower, and (ii) the Certificate Regarding Use of Proceeds, executed by the Borrower, in each case delivered in connection with the Bonds on the Closing Date.

The term "Tax Credit Investor" means (a) NEF Assignment Corporation, as nominee (the "Initial Tax Credit Investor"), or (b) any successor Tax Credit Investor identified in writing to the Trustee by any of the Initial Tax Credit Investor, the Borrower or the Bondowner.

The term "Trustee" means (a) U.S. Bank National Association, a national banking association organized under the laws of the United States of America, or (b) any successor Trustee under the provisions of Section 8.08 or 8.09 hereof.

The term "Variable Rate" means the rate of interest on the Note, as in effect from time to time, in accordance with the terms of the Note.

The terms "Written Consent," "Written Demand," "Written Direction," "Written Election," "Written Notice," "Written Order," "Written Request" and "Written Requisition" of the City or the Borrower shall mean, respectively; a written consent, demand, direction, election, notice, order, request or requisition signed on behalf of the City by an Authorized City Representative, or on behalf of the Borrower by an Authorized Borrower Representative.

Section 1.02. Rules of Construction. (a) The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders.

(b) All references herein to "Articles," "Sections" and other subdivisions hereof are to the corresponding Articles, Sections or subdivisions of this Indenture as originally executed; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

(c) The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

## ARTICLE II

### THE BONDS

Section 2.01. Authorization. There are hereby authorized to be issued bonds of the City designated as "City and County of San Francisco, California Multifamily Housing Revenue Bonds (Mission Street Permanent Supportive Housing), Series 2020A" in the initial aggregate principal amount of up to the Authorized Amount subject to funding over time, as provided herein. No Bonds may be issued hereunder except in accordance with this Article II. The maximum aggregate principal amount of Bonds which may be issued and Outstanding under this Indenture shall not exceed the Authorized Amount.

Section 2.02. Terms of Bonds. The Bonds shall be substantially in the form set forth in Exhibit A hereto with necessary or appropriate variations, omissions and insertions as permitted or required by this Indenture, including any supplemental indenture.

The Bonds shall be issuable only as fully registered Bonds, without coupons, in the form of a single Bond in the principal amount equal to the aggregate of the purchase price of the Bonds advanced from time to time by the owners of the Bonds (which principal amount shall be, on the Closing Date, equal to the amount of the Initial Disbursement). The Bonds shall be dated the Closing Date, shall mature on the Maturity Date, and shall be subject to redemption prior to maturity as provided in Article IV.

The Bonds shall bear interest at the same rate of interest as that of the Note. In furtherance of the foregoing, the Bonds shall bear interest at the same rate as the Note which rate will be as described in, and determined under the conditions of and in accordance with the Note. Notwithstanding the foregoing, upon the occurrence of an Event of Default hereunder or under the Loan Agreement, or the occurrence of an event of default under any of the other Loan Documents, the Bonds shall bear interest at the Default Rate. Interest on the Bonds shall be computed on the basis of a 360-day year and actual days elapsed.

The Bonds shall bear interest from the date to which interest has been paid on the Bonds next preceding the date of its authentication, unless it is authenticated as of an Interest Payment Date for which interest has been paid, in which event it shall bear interest from such Interest Payment Date, or unless it is authenticated on or before the first Interest Payment Date, in which event it shall bear interest from the Closing Date.

Section 2.03. Payment of Bonds. Payment of the principal of and interest on any Bond shall be made in lawful money of the United States to the person appearing on the Bond registration books of the Trustee as the registered owner thereof on the Record Date immediately preceding such Interest Payment Date or other date for payment of the Bonds upon the redemption thereof, such principal and interest to be paid by check mailed on the Interest Payment Date by first class mail, postage prepaid, to the registered owner at its address as it appears on such registration books, except that the Trustee may, at the request of any registered

owner of Bonds, make payments of principal and interest on such Bonds by wire transfer to the account within the United States designated by such owner to the Trustee in writing, any such designation to remain in effect until withdrawn in writing.

Section 2.04. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the City with the manual or facsimile signature of its Mayor. The Bonds shall then be delivered to the Trustee for authentication by the Trustee. In case any officer who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issuance, shall be as binding upon the City as though the officer(s) who signed the same had continued to be such officer(s) of the City. Also, any Bond may be signed on behalf of the City by such person(s) as on the actual date of the execution of such Bond shall be the proper officer(s) although on the nominal date of such Bond any such person shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.05. Transfer of Bonds. (a) Any Bond may, in accordance with the terms of this Indenture but in any event subject to the provisions of Section 2.05(b) hereof, be transferred upon the books of the Trustee required to be kept pursuant to the provisions of Section 2.06, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Office of the Trustee, accompanied by a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the City shall execute and the Trustee shall authenticate and deliver a new, fully registered Bond.

(b) The following shall apply to all transfers of the Bonds after the initial delivery of the Bonds:

(i) the Bonds, in the form attached hereto as Exhibit A, shall be physical certificated instruments, and shall not be held in a book-entry only system unless approved in advance in writing by the City in its sole discretion; and

(ii) the Bonds shall be transferred only in whole, to an entity that is a Sophisticated Investor, which must execute and deliver the form of Investor's Letter in the form attached hereto as Exhibit B.

The Trustee shall not authenticate or register a Bond unless the foregoing conditions of this Section 2.05(b) have been satisfied. Failure to comply with this Section 2.05(b) shall cause any purported transfer to be null and void.



(c) The Trustee shall require the payment by the Bondholder requesting any such transfer of any tax, fee or other governmental charge required to be paid with respect to such transfer, but any such transfer shall otherwise be made without charge to the Bondholder requesting the same. The cost of printing any Bonds and any services rendered or any expenses incurred by the Trustee in connection therewith shall be paid by the Borrower.

(d) The Trustee shall not transfer the Bonds without prior written notice to the City (which may be in the form of transmittal of the executed Investor's Letter to the City, together with an indication of the date of the proposed transfer).

Section 2.06. Bond Register. The City hereby appoints the Trustee as registrar and authenticating agent for the Bonds. The Trustee will keep or cause to be kept at its Principal Office sufficient books for the transfer of the Bonds, which shall at all reasonable times upon reasonable notice be open to inspection by the City and the Borrower; and, upon presentation for such purpose, the Trustee as registrar shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

The ownership of registered Bonds shall be proved by the bond registration books held by the Trustee. The Trustee and the City may conclusively assume that such ownership continues until written notice to the contrary is served upon the Trustee. The fact and the date of execution of any request, consent or other instrument and the amount and distinguishing numbers of Bonds held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

Any request, consent, or other instrument or writing of the Holder of any Bond shall bind every future Holder of the same Bond and the Holder of every Bond issued in exchange thereof or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the City in accordance therewith or reliance thereon.

### ARTICLE III

#### ISSUANCE OF BONDS; APPLICATION OF PROCEEDS

Section 3.01. Authentication and Delivery of the Bonds. Upon the execution and delivery of this Indenture, the City shall execute the Bonds and deliver them to the Trustee. Upon payment of the initial issuance fee described in Section 18 of the Regulatory Agreement and satisfaction of the conditions set forth in this Section 3.01, and without any further action on the part of the City, the Trustee shall authenticate the Bonds in an aggregate principal amount not exceeding the Authorized Amount, and shall deliver them pursuant to the Written Order of the City hereinafter mentioned. Prior to the authentication and delivery of any of the Bonds by the Trustee, there shall have been delivered to the Trustee each of the following:

(a) the original executed Note, and executed original counterparts of this Indenture, the other documents to be executed and delivered by the City, and each of the other Loan Documents;

(b) the Construction Disbursement Agreement, as 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;

(c) the Certified Resolution;

(d) evidence of the payment of the initial installment of the purchase price of the Bonds and deposit of the Borrower funds required pursuant to this Indenture, if any;

(e) an opinion of Bond Counsel substantially to the effect that the Bonds constitute legal, valid and binding obligations of the City and that under existing statutes, regulations, rulings and court decisions, the interest on the Bonds is not includable in gross income of the owners of the Bonds (other than a bondowner who is a "substantial user" of the Project or a "related person" to a "substantial user," as defined in Section 147(a) of the Code) for federal income tax purposes;

(f) an opinion of counsel to the Borrower addressed to the City, the Bondowner and the Trustee, in form and substance satisfactory to the City and the Bondowner, regarding the enforceability against the Borrower of each of the documents to which the Borrower is a party; and

(g) an original investor letter executed by the initial purchaser(s) of the Bonds, in substantially the form set forth in Exhibit B hereto.

Section 3.02. Application of Proceeds of Bonds. The Initial Disbursement and subsequent disbursements of the proceeds received from the sale of the Bonds shall be disbursed in accordance with Section 3.03 of this Indenture. The Bondowner will fund the purchase price of

the Bonds from time to time by advancing funds to the Trustee, which amounts so advanced shall be deposited by the Trustee into the Construction Fund in accordance with Section 3.03(a) of this Indenture. The Trustee shall note such amount in its records, and the Trustee (if it holds the Bonds) or the Bondowner (if it holds the Bonds) shall note such amount on the Schedule of Drawings attached to the Bond. Such amounts shall constitute the Disbursed Amount, and shall begin to accrue interest only upon disbursement by the Bondowner to the Trustee for deposit in the Construction Fund. The Trustee, or the Bondowner, as applicable, shall note on the Schedule of Drawings attached to the Bond the date and amount of each advance by the Bondowner. Notwithstanding anything herein to the contrary, the aggregate purchase price of the Bonds funded by the Bondowner may not exceed the Authorized Amount (and the Trustee, if it holds the Bonds, or the Bondowner, if it holds the Bonds, shall make no notation on the Schedule of Drawings attached to the Bonds evidencing a principal amount of the Bonds exceeding such amount) and no additional advances of the purchase price of the Bonds may be funded on or after the first to occur of (i) the Maturity Date (as defined in the Loan Agreement), or (ii) December 31, 2023.

Section 3.03. Disbursement of Bond Proceeds; Establishment of Construction Fund. There is hereby created and established with the Trustee a separate fund which shall be designated the "Construction Fund," and within such fund a "Bond Proceeds Account" and an "Equity Account" which fund and accounts shall be applied only as provided in this Section 3.03. The Initial Disbursement on the Closing Date shall be deposited by the Trustee in the Bond Proceeds Account for payment to or upon the order of the Borrower of Project Costs and/or Issuance Costs. The Initial Equity Deposit shall be deposited by the Trustee on the Closing Date in the Equity Account for payment to or upon the order of the Borrower of Project Costs and/or Issuance Costs.

(a) The Bondowner shall advance the purchase price of the Bonds from time to time, provided the date and amount of such advance is duly noted by the Trustee (if it holds the Bonds) or the Bondowner (if it holds the Bonds) on the Schedule of Payments set forth as Exhibit A to the Bonds. The Trustee shall deposit the proceeds of each advance of the purchase price of the Bonds into the Bond Proceeds Account. The Trustee shall also accept from time to time installments of tax credit equity from the Tax Credit Investor and shall deposit such installments in the Equity Account. Funds on deposit in either account of the Construction Fund, and any interest earnings thereon, shall be transferred by the Trustee to the Borrower for the payment of Project Costs as described in Section 3.03(b) below.

(b) The City hereby authorizes and directs the disbursement by the Trustee of amounts in either account of the Construction Fund in accordance with this Indenture to or upon the order of the Borrower from time to time upon receipt by the Trustee of a written request of the Borrower, in the form attached hereto as Exhibit C, accompanied, in the case of disbursements from the Bond Proceeds Account, by a determination of the Bondowner (evidenced by its approval of the written request of the Borrower) that the conditions to disbursement contained in the Construction Disbursement Agreement have been satisfied or waived. Notwithstanding the foregoing provisions of this paragraph, no

written request of the Borrower shall be required solely for the payment of interest on the Bonds from the Bond Proceeds Account, it being understood that only the request of the Bondowner shall be required for such disbursement.

(c) The Trustee shall maintain, or cause to be maintained, complete and accurate records regarding the disbursements from each account of the Construction Fund in accordance with Section 3.02 hereof, and shall provide copies thereof to the City and the Borrower upon their written request. Additionally, the Trustee shall provide the City with a monthly statement regarding activity in each of the funds and accounts created under this Indenture, including the Construction Fund and the Bond Fund in the immediately preceding month.

(d) None of the Trustee, the Bondowner or the City shall be responsible for the application by the Borrower of monies disbursed to the Borrower in accordance with this Section 3.03.

If an Event of Default under and as defined in the Loan Agreement occurs and the maturity of the Bonds is accelerated in accordance with Section 4.01(b) hereof, the Trustee will, to the extent necessary, use moneys in the Construction Fund and Bond Fund to make payments on the Bonds.

## ARTICLE IV

### REDEMPTION OF BONDS

Section 4.01. Circumstances of Redemption. The Bonds are subject to redemption upon the circumstances, on the dates and at the prices set forth as follows:

(a) The Bonds shall be subject to redemption in whole or in part on any date, at a price equal to the principal amount of Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption, plus a premium equal in amount to any premium payable pursuant to the Note or the Construction Disbursement Agreement in connection with the voluntary prepayment of the Note in whole or in part by the Borrower, as permitted therein; provided, however, that any other charges then due and payable pursuant to the Note or the Loan Agreement shall be paid in full (or, in connection with a partial redemption of the Bonds, paid in proportion to the amount of Bonds being so redeemed) on the redemption date.

(b) The Bonds shall be subject to mandatory redemption in whole upon the occurrence of an Event of Default under and as defined in the Loan Agreement or the occurrence of an event of default under any other of the Loan Documents (subject to all applicable notice and cure provisions contained therein), but only at the written direction of the Bondowner, at a redemption price equal to the principal amount of all of the Bonds then Outstanding, plus accrued interest thereon to the date of redemption, plus any applicable prepayment premium, as may be provided in the Note or the Construction Disbursement Agreement.

(c) The Bonds shall be subject to mandatory redemption, at the direction of the Bondowner (given in accordance with the Loan Agreement or the Deed of Trust), in whole or in part on any date, from insurance proceeds received in connection with a partial or total casualty loss of the Project or a condemnation award in connection with a partial or complete taking of the Project, but only to the extent such proceeds or award are not used to repair, replace or restore the Project, at a price equal to the principal amount of Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption.

(d) The Bonds shall be subject to redemption without notice to the extent of any principal payments received under the Note on or prior to the Maturity Date in connection with the Maturity (as defined in the Construction Disbursement Agreement).

The Bondowner is hereby authorized and directed, and hereby agrees, by written notice to the Trustee, the Borrower and the City, to fix the date for any such redemption, and, if Revenues are available, the Trustee shall redeem the Bonds so called on the date so fixed by the Bondowner. If for any reason there is more than one Bondowner as of any date of redemption, Bonds shall be redeemed pro rata among the Bondowners. So long as there is only one Bondowner, the

Bondowner need not surrender its Bond in connection with any redemption of Bonds unless the Bonds are redeemed in whole.

Section 4.02. No Notice of Redemption. No notice of redemption of the Bonds need be given to the Bondowner by the Trustee, but the Bondowner shall give notice of any redemption under Section 4.01 to the City and the Borrower at the same time such notice is given to the Trustee.

Section 4.03. Effect of Redemption. If moneys for payment of the redemption price of the Bonds are being held by the Trustee, the Bonds so called for redemption shall, on the redemption date selected by the Bondowner, become due and payable at the redemption price specified herein, interest on the Bonds so called for redemption shall cease to accrue, said Bonds shall cease to be entitled to any lien, benefit or security under this Indenture, and the holders of the Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

## ARTICLE V

### REVENUES

Section 5.01. Pledge of Revenues. All of the Revenues are hereby irrevocably pledged to the punctual payment of the principal of, premium, if any, and interest on the Bonds. The City also hereby transfers in trust, grants a security interest in and assigns to the Trustee, for the benefit of the Bondowner, all of its right, title and interest in (a) the Revenues, but excluding any amounts calculated as excess investment earnings under Section 6.07 hereof, (b) all amounts on deposit in any fund or account created hereunder and held by the Trustee, but excluding any amounts calculated as excess investment earnings under Section 6.07 hereof, (c) the Loan Agreement (except for the Reserved Rights), (d) the Note, and (e) any other amounts or agreements referenced in the Loan Agreement as security for the repayment of the Bonds.

All Revenues received by the Trustee and all amounts on deposit in the funds and accounts created hereunder and held by the Trustee shall be held in trust for the benefit of the holders from time to time of the Bonds, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes hereinafter set forth in this Article V.

None of the City, the members of the Board of Supervisors, the directors, officers, officials, employees, attorneys or agents of the City, or any person executing the Bonds is liable personally on the Bonds or subject to any personal liability or accountability by reason of their issuance. The Bonds are limited obligations of the City, payable only as provided herein, and are not a general obligation, nor are they secured by a pledge of the faith and credit, of the City, the State or any of its political subdivisions, nor are the Bonds payable out of any funds or properties other than those of the City expressly pledged for the payment thereof under this Indenture. The Bonds do not constitute indebtedness within the meaning of any constitutional or statutory debt limitation. The issuance of the Bonds shall not directly, indirectly, or contingently obligate the City, State of California or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

No recourse shall be had for the payment of the principal of or premium or interest on the Bonds against any past, present or future supervisor, officer, official, director, employee or agent of the City, or of any successor thereto, as such, either directly or through the City or any successor to the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such supervisors, officers, officials, directors, employees or agents, as such, is hereby expressly waived and released as a condition of, and consideration for, the execution and issuance of the Bonds.

The City shall not be liable for payment of the principal of or interest on the Bonds or any other 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 Indenture, the Bonds or any other documents, except only to the extent amounts are received for the payment thereof from the Borrower under the Loan Agreement.

Section 5.02. Bond Fund. There is hereby created and established with the Trustee a separate fund which shall be designated the "Bond Fund," which fund shall be applied only as provided in this Section 5.02.

The Trustee shall credit to the Bond Fund from time to time, upon receipt thereof, all Revenues, including (i) income received from the investment of moneys on deposit in the Bond Fund, and (ii) any other Revenues, including insurance proceeds, condemnation awards and other Loan payments or prepayments received from or for the account of the Borrower.

Except as provided in Section 10.02, moneys in the Bond Fund shall be used solely for the payment of the principal of and premium, if any, and interest on the Bonds as the same shall become due, whether at maturity or upon redemption or acceleration or otherwise.

On each date on which principal of, premium, if any, or interest on the Bonds is due and payable, the Trustee shall pay such amount from the Bond Fund.

Section 5.03. Investment of Moneys. Except as otherwise provided in this Section 5.03, any moneys in any of the funds and accounts to be established by the Trustee pursuant to this Indenture shall be invested by the Trustee in Investment Securities selected and directed in a Written Request executed by an Authorized Borrower Representative, with respect to which payments of principal thereof and interest thereon are scheduled or otherwise payable not later than one day prior to the date on which it is estimated that such moneys will be required by the Trustee. In the absence of such a Written Request, the Trustee shall invest such moneys in the Investment Securities described in clause (f) of the definition of such term, provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received written direction of an Authorized Borrower Representative specifying a specific money market fund that satisfies the requirements of such subsection in which such investment is to be made and, if no such written direction is so received, the Trustee shall hold such moneys uninvested. The Trustee shall have no liability or responsibility for any loss resulting from any investment made in accordance with this Section 5.03.

Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of Section 148 of the Code). The Trustee shall have no duty to determine Fair Market Value or present value hereunder.



For the purpose of determining the amount in any fund or account, all Investment Securities credited to such fund or account shall be valued at the lower of cost or par (which shall be measured exclusive of accrued interest) after the first payment of interest following purchase.

Any interest, profit or loss on such investment of moneys in any fund or account shall be credited or charged to the respective funds or accounts from which such investments are made. Subject to the requirements of the Tax Certificate, the Trustee may sell or present for redemption any obligations so purchased whenever it shall be necessary in order to provide moneys to meet any payment, and the Trustee shall not be liable or responsible for any loss resulting from such sale or redemption.

The Trustee may make any and all investments permitted under this Section 5.03 through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Trustee and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Investment Securities under this Section 5.03.

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

Section 5.04. Assignment to Trustee; Enforcement of Obligations. The City hereby transfers, assigns and sets over to the Trustee, for the benefit of the Bondowner, and the Trustee hereby accepts, all of the Revenues, all moneys at any time held in the funds and accounts established hereunder and any and all rights and privileges the City has under the Loan Agreement, the Deed of Trust and the other Loan Documents (except for the City's rights under Sections 2.3, 2.4, 4.1, 5.1(d), 5.1(e), 6.2, 6.3, 6.5, 6.6, 6.7, 6.14, 7.4, 8.2 and 8.3 of the Loan Agreement and except for amounts payable to the United States of America pursuant to Section 6.14(i) of the Loan Agreement); and any Revenues which are collected or received by the City shall be deemed to be held, and to have been collected or received, by the City as the agent of the Trustee, and shall forthwith be paid by the City to the Trustee.

Upon the occurrence of an Event of Default, the Bondowner shall be entitled in its sole discretion to take all steps, actions and proceedings: (a) to enforce the terms, covenants and conditions of, and preserve and protect the priority of its interest in and under, the Loan Agreement, the Construction Disbursement Agreement, the Regulatory Agreement, the Deed of Trust and any other Loan Documents, and (b) to request compliance with all covenants, agreements and conditions on the part of the City contained in this Indenture with respect to the Revenues.

## ARTICLE VI

### COVENANTS OF THE CITY

Section 6.01. Payment of Principal and Interest. The City shall punctually pay, but only out of Revenues as herein provided, the principal and the interest (and premium, if any) to become due in respect of the Bonds issued hereunder at the times and places and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof. When and as paid in full, the Bonds shall be delivered to the Trustee and shall forthwith be destroyed.

Section 6.02. Preservation of Revenues; Amendment of Documents. The City shall not take any action to interfere with or impair the pledge and assignment hereunder of Revenues and the assignment to the Trustee of rights of the City under the Loan Agreement and the Deed of Trust and other collateral documents, or the Bondowner's enforcement of any rights hereunder or thereunder, shall not take any action to impair the validity or enforceability of the Loan Agreement, the Deed of Trust or the other Loan Documents, and shall not waive any of its rights under or any other provision of or permit any amendment of the Loan Agreement, the Deed of Trust or the other Loan Documents, without the prior written consent of the Bondowner.

Section 6.03. Compliance with Indenture. The City shall not issue, or permit to be issued, any Bonds secured or payable in any manner out of Revenues other than in accordance with the provisions of this Indenture; it being understood that the City reserves the right to issue obligations payable from and secured by sources other than the Revenues and the assets assigned herein. The City shall faithfully observe and perform all the covenants, conditions and requirements hereof. So long as any Bonds are Outstanding, the City shall not create any pledge, lien or charge of any type whatsoever upon all or any part of the Revenues, other than the lien of this Indenture.

Section 6.04. Further Assurances. Whenever and so often as requested so to do by the Trustee, the City, at the expense of the Borrower, shall promptly execute and deliver or cause to be executed and delivered all such other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Trustee and the Bondholders all of the rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them by this Indenture and to perfect and maintain as perfected such rights, interests, powers, benefits, privileges and advantages.

Section 6.05. No Arbitrage. The City shall not take, nor knowingly permit nor suffer to be taken by the Trustee or otherwise, any action with respect to the gross 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 the issuance of the Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and Regulations promulgated thereunder.

Section 6.06. Limitation of Expenditure of Proceeds. To the best knowledge of the City, not less than 97 percent of the amount advanced as the purchase price of the Bonds, plus premium (if any) paid on the purchase of the Bonds by the original purchaser thereof from the City, less original issue discount, will be used for Qualified Project Costs and less than 25 percent of such amount will be used, directly or indirectly, for the acquisition of land or an interest in land.

Section 6.07. Rebate of Excess Investment Earnings to United States. The City hereby covenants to cause the Borrower (solely by the inclusion of Section 6.14(i) in the Loan Agreement and Section 2(g) in the Regulatory Agreement) to calculate or cause to be calculated excess investment earnings to the extent required by Section 148(f) of the Code and the Borrower shall cause payment of an amount equal to excess investment earnings to the United States in accordance with the Regulations, all at the sole expense of the Borrower.

Section 6.08. Limitation on Issuance Costs. The Issuer 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 original 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.

Section 6.09. Federal Guarantee Prohibition. The City 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.

Section 6.10. Prohibited Facilities. The City 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.

Section 6.11. Use Covenant. The City 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. The City shall assure 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. The City shall assure 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.

Section 6.12. Income Targeting. The City 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. The City shall comply with the Regulatory Agreement.

Section 6.13. Maintenance of Tax Exemption. The City 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.

Section 6.14. Immunities and Limitations of Responsibility of City.

(a) The City shall be entitled to the advice of counsel (who, except as otherwise provided, may be counsel for any Bondholder), and the City shall be wholly protected as to action taken or omitted in good faith in reliance on such advice. The City may rely conclusively on any communication or other document furnished to it hereunder and reasonably believed by it to be genuine. The City shall not be liable for any action (a) taken by it in good faith and reasonably believed by it to be within its discretion or powers hereunder, or (b) in good faith omitted to be taken by it because such action was reasonably believed to be beyond its discretion or powers hereunder, or (c) taken by it pursuant to any direction or instruction by which it is governed hereunder, or (d) omitted to be taken by it by reason of the lack of any direction or instruction required hereby for such action; nor shall it be responsible for the consequences of any error of judgment reasonably made by it. The City shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person, except its own officers and employees. When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof. The City shall not be required to take any remedial action (other than the giving of notice) unless indemnity in a form acceptable to the City is furnished for any expense or liability to be incurred in connection with such remedial action, other than liability for failure to meet the standards set forth in this Section 6.14. The City shall be entitled to reimbursement from the Borrower for its expenses reasonably incurred or advances reasonably made, with interest at the rate of interest on the Bonds, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act which the City may have shall be construed as a requirement to act; and no delay in the exercise of a right or power shall affect its subsequent exercise of the right or power.

(b) In furtherance of the covenants in Sections 6.05, 6.06, 6.07, 6.08, 6.09, 6.10, 6.11, 6.12, 6.13 and 6.14 hereof, the City and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Indenture and made a part of this Indenture as if set forth in this Indenture in full. In the event of a conflict between the terms of this Indenture and the Tax Certificate, the terms of the Tax Certificate shall control. In making the representations and agreements set forth in Sections 6.05, 6.06, 6.08, 6.09, 6.10, 6.11, 6.12, 6.13 and 6.14 hereof, the City is relying solely upon the representations and warranties of the Borrower in the Loan Agreement, in the Regulatory Agreement and in the Tax Certificate. A default by the Borrower in any of its covenants, representations and agreements in the Loan Agreement, Regulatory Agreement or Tax Certificate upon which the City is relying in the various sections of this Article VI shall not be considered a default hereunder by the City.

(c) The Borrower has indemnified the City against certain acts and events as set forth in Section 8 of the Regulatory Agreement. Such indemnity shall survive payment of the Bonds and discharge of the Indenture.

## ARTICLE VII

### DEFAULT

Section 7.01. Events of Default; Acceleration; Waiver of Default. Each of the following events shall constitute an "Event of Default" hereunder:

(a) failure to pay interest on the Bonds when due;

(b) failure to pay the principal of the Bonds on the date fixed for payment thereof, whether upon the maturity thereof or pursuant to Section 4.01 hereof; and

(c) failure by the City to perform or observe any other of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, and the continuation of such failure for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City, the Borrower and the Trustee by the Bondowner.

No default specified in (c) above shall constitute an Event of Default unless the City or the Borrower shall have failed to correct such default within the applicable period; provided, however, that if the default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Borrower within the applicable period and diligently pursued until the default is corrected; and provided, further, that the time elapsed until completion of corrective action shall not exceed sixty (60) days without the consent of the Bondowner, which consent shall not be unreasonably withheld. With regard to any alleged default concerning which notice is given to the Borrower under the provisions of (c) above, the City hereby grants the Borrower full authority for the account of the City to perform any covenant or obligation the non-performance of which is alleged in said notice to constitute a default in the name and stead of the City with full power to do any and all things and acts to the same extent that the City could do and perform any such things and acts and with power of substitution.

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

Following the occurrence of an Event of Default, the Bondowner may (i) by notice in writing to the Trustee, the City and the Borrower, declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding, and/or (ii) pursue such other

remedies as are permitted under applicable law. Upon any such declaration of acceleration, the Trustee, at the direction of the Bondowner, shall fix a date for payment of the Bonds.

The preceding paragraph, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, there shall have been deposited with the Trustee a sum sufficient to pay all the principal of the Bonds matured or required to be redeemed prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal, and the reasonable fees and expenses of the Trustee, its agents and counsel, and any and all other defaults actually known to a Responsible Officer of the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Bondowner to be adequate shall have been made therefor, then the Bondowner, by written notice to the City and the Trustee, may rescind and annul such declaration and its consequences and waive such default; but no such rescission, annulment or waiver shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Section 7.02. Institution of Legal Proceedings by Bondowner Representative. If one or more of the Events of Default shall occur, the Bondowner in its discretion may proceed to protect or enforce its rights as owner of the Bonds under the Act or under this Indenture, the Note and/or the Loan Agreement, by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or therein, or in aid of the execution of any power herein or therein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Bondowner shall deem most effectual in support of any of its rights or duties hereunder.

Section 7.03. Application of Moneys Collected by Bondowner or Trustee. Any moneys collected by the Bondowner or the Trustee pursuant to Section 7.02 shall be deposited with the Trustee and applied in the order following, at the date or dates fixed by the Bondowner with written notice to the Trustee and, in the case of distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the Bonds and stamping thereon the payment, if only partially paid, and upon surrender thereof to the Trustee, if fully paid:

*First.* For payment of all amounts due to the Trustee under Section 8.06.

*Second.* For deposit in the Bond Fund to be applied to payment of the principal of all Bonds then due and unpaid and interest thereon with application as between principal and interest as the Bondowner shall determine in its sole discretion.

*Third.* For payment of all other amounts due from the Borrower to any person hereunder or under the Loan Agreement.

*Fourth: To the Borrower.*

Section 7.04. Effect of Delay or Omission to Pursue Remedy. No delay or omission of the Trustee or of any owner of the Bonds to exercise any right or power arising from any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every power and remedy given by this Article VII to the Trustee or to any owner of the Bonds may be exercised from time to time and as often as shall be deemed by the Bondowner to be expedient. In case the Bondowner shall have proceeded to enforce any right under this Indenture, and such proceedings shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to the Bondowner, then and in every such case the City, the Trustee and the owner of the Bonds, severally and respectively, shall be restored to their former positions and rights hereunder in respect to the trust estate; and all remedies, rights and powers of the City, the Trustee and the owner of the Bonds shall continue as though no such proceedings had been taken.

Section 7.05. Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee or to any owner of the Bonds hereunder is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.06. Covenant to Pay Bonds in Event of Default. The City covenants that, upon the happening of any Event of Default, the City will pay to the Trustee upon demand, but only out of Revenues, for the benefit of the holders of the Bonds, the whole amount then due and payable thereon (by declaration or otherwise) for interest or for principal, or both, as the case may be, and all other sums which may be due hereunder or secured hereby, including reasonable compensation to the Trustee, its agents and counsel, and any expenses or liabilities incurred by the Trustee or the Bondowner hereunder. In case the City shall fail to pay the same forthwith upon such demand, the Trustee, at the written direction of the Bondowner, as trustee of an express trust, and upon being indemnified by the Bondowner to its satisfaction, shall be entitled to institute proceedings at law or in equity in any court of competent jurisdiction to recover judgment for the whole amount due and unpaid, together with costs and reasonable attorneys' fees, subject, however, to the condition that such judgment, if any, shall be limited to, and payable solely out of Revenues and any other assets pledged, transferred or assigned to the Trustee under Section 5.04 as herein provided and not otherwise. The Bondowner shall be entitled to recover such judgment as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of this Indenture, and the right of the Bondowner to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of the provisions of this Indenture.

Section 7.07. Appointment of Servicer. The City and the Trustee acknowledge and agree that Bondowner shall have the right to appoint a servicer (the "Servicer") to service and administer the Loan and act as Bondowner's agent with respect to its interests, rights and obligations as set forth in the Construction Disbursement Agreement and other Loan Documents and with respect to the Bonds. The Bondowner shall deliver written notice of any such appointment to the City,



the Trustee and the Borrower, together with notice of any and all rights and duties assigned and delegated by the Bondowner to the Servicer in connection therewith. The Bondowner may, in its sole discretion, terminate or replace the Servicer and shall deliver notice thereof to the City, the Trustee and the Borrower. Neither the City nor the Trustee shall be responsible for monitoring the performance of the Servicer or for any acts or omissions of the Servicer.

Section 7.08. Power of Bondowner to Control Proceedings. Notwithstanding any other provision of this Indenture, the Bondowner shall have exclusive control of the remedies set forth herein upon an Event of Default by the Borrower or the City. In the event that the Bondowner, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, it shall have full power, in the exercise of its sole discretion for the best interests of the holders of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action.

Section 7.09. Limitation on Trustee's Right to Sue. The Trustee shall not have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, except upon the written consent or direction of the Bondowner. The right of the owner of the Bonds to receive payment of the principal of (and premium, if any) and interest on such Bond out of Revenues, as herein and therein provided, on and after the respective due dates expressed in such Bond shall not be impaired or affected without the consent of the Bondowner, notwithstanding the foregoing or any other provision of this Indenture.

Section 7.10. Limitation of Liability to Revenues. Notwithstanding anything herein or in any other instrument to the contrary, the City shall not be required to advance any moneys derived from the proceeds of taxes collected by the City, by the State of California or by any political subdivision thereof or from any source of income of any of the foregoing other than the Revenues for any of the purposes mentioned in this Indenture, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture. The Bonds are limited obligations of the City, and are payable from and secured by the Revenues only.

## ARTICLE VIII

### THE TRUSTEE AND AGENTS

Section 8.01. Duties, Immunities and Liabilities of Trustee. In consideration of the recitals hereinabove set forth and for other valuable consideration, the City hereby agrees to employ the Trustee to receive, hold, invest and disburse the moneys received pursuant to the Loan Agreement for credit to the various funds and accounts established by this Indenture; to execute, deliver and transfer the Bonds; and to apply and disburse the payments received from the Borrower pursuant to the Loan Agreement to the Owners of Bonds; and to perform certain other functions; all as herein provided and subject to the terms and conditions of this Indenture. The Trustee shall perform such duties and only such duties as are specifically set forth in this Indenture and no additional covenants or duties of the Trustee shall be implied in this Indenture.

The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as reasonable persons familiar with such matters would exercise or use under similar circumstances in the conduct of their own affairs.

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

(a) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee conforming to the requirements of this Indenture;

(b) At all times (1) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or officers or by any agent or attorney of the Trustee appointed with due care unless (except as otherwise provided in Section 8.02(e)) the Trustee was negligent in ascertaining the pertinent facts; and (2) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the City, accompanied by an opinion of Bond Counsel as provided herein or in accordance with the directions of the holders of not less than a majority, or such other percentage as may be required hereunder, in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee; or exercising any trust or power conferred upon the Trustee under this Indenture;

(c) The Trustee shall not be required to take notice or be deemed to have notice of (i) any default hereunder or under the Loan Agreement, except defaults under Section 7.01(a) or (b) hereof, unless a Responsible Officer of the Trustee shall be specifically notified in writing of such default by the City or the owners of at least a majority in aggregate principal amount of all Bonds then Outstanding, or (ii) any default under the Regulatory Agreement unless a Responsible Officer of the Trustee shall be specifically notified in writing of such default by the City;

(d) Before taking any action under Article VII hereof or this Section 8.01 at the request or direction of the Bondholders, the Trustee may require that a satisfactory indemnity bond be furnished by the Bondholders, for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken;

(e) Upon any application or request by the City or the Bondowner to the Trustee to take any action under any provision of this Indenture, the City or Bondowner, as applicable, shall furnish to the Trustee a certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished;

(f) The Trustee may execute any of the powers hereunder or perform any duties hereunder either directly or through agents or attorneys;

(g) Neither the City nor the Borrower shall be deemed to be agents of the Trustee for any purpose, and the Trustee shall not be liable for any noncompliance of any of them in connection with their respective duties hereunder or in connection with the transactions contemplated hereby;

(h) The Trustee shall be entitled to rely upon telephonic notice for all purposes whatsoever so long as the Trustee reasonably believes such telephonic notice has been given by a person authorized to give such notice;

(i) The immunities extended to the Trustee also extend to its directors, officers and employees;

(j) Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds, it being the sole obligation of the Trustee to administer, for the benefit of the Bondholders, the various funds and accounts established hereunder;

(k) No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy;

(l) The Trustee shall not be liable for any action taken or not taken by it in accordance with the direction of the Bondowner related to the exercise of any right, power or remedy available to the Trustee; and

(m) The Trustee shall have no duty to review any financial statements or budgets filed with it by the Borrower under the Loan Agreement.

(n) The Trustee acknowledges that Borrower has an obligation to pay certain fees to the City pursuant to Section 18 of the Regulatory Agreement. The Trustee further acknowledges that in order to preserve the tax-exempt status of the Bonds, the Borrower must comply with requirements for rebate of excess investment earnings to the federal government to the extent applicable. The Trustee agrees to send the Borrower a notification or reminder of the Borrower's obligation to rebate excess investment earnings by the date which is sixty (60) days after the earlier of the Bond maturity date or date the Bonds are paid in full, said notice to be given by the Trustee on the earlier of the maturity date or date of payment in full of the Bonds. However, in no event shall the Trustee be liable to the City, the Bondowner or the Borrower for the failure to so notify or remind the Borrower.

(o) Without limiting the duties of the Trustee expressly set forth in this Indenture, the Trustee shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax-exempt status of the Bonds or the interest thereon; (ii) the consequences of investment or non-investment of any funds or accounts relating to the Bonds under Section 148 of the Code; (iii) the calculation of any amount required to be rebated to the United States under Section 148 of the Code; or (iv) compliance by the City or the Borrower with the provisions of the Tax Certificate.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties as Trustee or in the exercise of any of its rights or powers as Trustee. Whether or not therein expressly so provided, every provision of this Indenture, the Loan Agreement, the Regulatory Agreement or any other document relating to the conduct, powers or duties of, or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Article VIII.

Section 8.02. Right of Trustee to Rely Upon Documents, Etc. Except as otherwise provided in Section 8.01:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request,

consent, order, bond or other paper or document reasonably believed by it to be genuine and to have been signed and presented by the proper party or parties;

(b) Any consent, demand, direction, election, notice, order or request of the City mentioned herein shall be sufficiently evidenced by a Written Consent, Written Demand, Written Direction, Written Election, Written Notice, Written Order or Written Request of the City, and any resolution of the City may be evidenced to the Trustee by a Certified Resolution;

(c) The Trustee may consult with counsel (who may be counsel for the City, counsel for the Trustee or Bond Counsel) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel;

(d) Whenever in the administration of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the City; and such Certificate of the City shall, in the absence of negligence or bad faith on the part of the Trustee, be full warrant to the Trustee for any action taken or suffered by it under the provisions of this Indenture upon the faith thereof; and

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

Section 8.03. Trustee Not Responsible for Recitals. The recitals contained herein and in the Bonds shall be taken as the statements of the City, and the Trustee assumes no responsibility for the correctness of the same or for the correctness of the recitals in the Loan Agreement or the Regulatory Agreement. The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Bonds. The Trustee makes no representations as to the value or condition of any assets pledged or assigned as security for the Bonds, or as to the right, title or interest of the City therein, or as to the security provided thereby or by this Indenture, the Loan Agreement, the Deed of Trust or the other Loan Documents, or as to the compliance of the Project with the Act, or as to the tax-exempt status of the Bonds, or as to the technical or financial feasibility of the Project, or as to the validity or sufficiency of this Indenture as an instrument of the City or of the Bonds as obligations of the City. The Trustee shall not be accountable for the use or application by the City of any of the Bonds authenticated or delivered hereunder or of the use or application of the proceeds of such Bonds by the City or the Borrower or their agents.

Section 8.04. Intervention by Trustee. The Trustee may intervene on behalf of the owners of the Bonds in any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of owners of the Bonds and, subject to the provisions of Section 8.01(d), but shall do so only if requested in writing by the Bondowners.

Section 8.05. Moneys Received by Trustee to be Held in Trust. All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law or as otherwise provided herein. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree with the City to pay thereon.

Section 8.06. Compensation and Indemnification of Trustee and Agents.

(a) The Trustee shall be entitled to receive compensation from the Borrower for its services as Trustee, as provided in Section 5.1(f) of the Loan Agreement, and shall be indemnified by the Borrower as provided in Section 8 of the Regulatory Agreement. The Trustee acknowledges and agrees that, unless otherwise specifically agreed to in writing by the City (in the City's sole and absolute discretion); the City shall not be responsible for the fees and expenses of the Trustee, and is providing no indemnification to the Trustee.

(b) If any property, other than cash, shall at any time be held by the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds, shall be entitled to but not obligated to make advances for the purpose of preserving such property or of discharging tax liens or other prior liens or encumbrances thereon. The rights of the Trustee to compensation for services and to payment or reimbursement for expenses, disbursements, liabilities and advances shall have and is hereby granted a lien and a security interest prior to the Bonds in respect of all property and funds held or collected by the Trustee as such, except funds held in trust by the Trustee in the Bond Fund, which amounts shall be held solely for the benefit of the Bondholders and used only for the payment of principal of and premium, if any, and interest on the Bonds. The Trustee's rights to immunities, indemnities and protection from liability hereunder and its rights to payment of its fees and expenses shall survive the Trustee's resignation or removal and final payment of the Bonds.

Section 8.07. Qualifications of Trustee. There shall at all times be a trustee hereunder, which shall be a corporation, banking association or trust company, in each case having trust powers, doing business and having a principal corporate trust office in California and shall

(a) either (i) have a combined capital and surplus of at least \$100,000,000 and be subject to supervision or examination by federal or state authority, or (ii) be a wholly-owned subsidiary of a bank, trust company or bank holding company meeting on an aggregate basis the tests set out in clause (i); and

(b) be able to comply with the terms and conditions of this Indenture, including, without limitation, Section 8.11 and Exhibit D, and to comply with the terms of the Loan Agreement applicable thereto.

If such corporation, banking association, or trust company publishes reports of conditions at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 8.07 the combined capital and surplus of such corporation, banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.07, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.08(b) below.

Section 8.08. Removal, Resignation and Appointment of Successor Trustee.

(a) *Removal of Trustee.* The City may remove the Trustee at any time unless an Event of Default occurs and is then continuing, and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Bondowner (or its attorney duly authorized in writing) or if at any time the Trustee shall cease to be eligible in accordance with Section 8.07 hereof, or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or any substantial portion thereof or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and thereupon the City shall appoint a successor Trustee by an instrument in writing. Any successor Trustee appointed by the City under Section 8.08(c) of this Indenture shall be subject to the approval of the Bondowner, which approval shall not unreasonably be withheld or delayed.

(b) *Resignation of Trustee.* The Trustee may at any time resign by giving written notice of such resignation by first class mail, postage prepaid, to the City and to the Bondowner. Upon receiving such notice of resignation, the City shall appoint a successor Trustee by an instrument in writing. The Trustee shall not be relieved of its duties until such successor Trustee has accepted appointment, other than pursuant to court order.

(c) *Appointment of Successor Trustee.* Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon the acceptance of appointment of the successor Trustee; provided, however, that under any circumstances the successor Trustee shall be qualified as provided in subsection (a) of this Section 8.08. If no qualified successor Trustee shall have been appointed and have accepted appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or the Bondholder may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its

acceptance of such appointment by executing and delivering to the City and its predecessor Trustee a written acceptance thereof, and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the written request of the City or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance, including a quitclaim deed, and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trust and conditions herein set forth. Upon request of the successor Trustee, the City shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the successor Trustee shall mail, by first class mail, postage prepaid, a notice of the succession of such Trustee to the trusts hereunder to the Bondholders at the addresses shown on the registration books.

Section 8.09. Merger or Consolidation of Trustee. Any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding, provided that such successor Trustee shall be eligible under the provisions of the first sentence of Section 8.07.

Section 8.10. Paying Agents. The Trustee, with the written approval of the City and the Bondowner, may appoint and at all times have one or more paying agents in such place or places as the Trustee may designate, for the payment of the principal of, and the interest (and premium, if any) on, the Bonds. It shall be the duty of the Trustee to make such arrangements with any such paying agent as may be necessary and feasible to assure, to the extent of the moneys held by the Trustee for such payment, the availability of funds for the prompt payment of the principal of and interest and premium, if any, on the Bonds presented at either place of payment. The paying agent initially appointed hereunder is the Trustee.

Section 8.11. City Contracting Provisions. The Trustee covenants and agrees to comply with the provisions set forth in Exhibit D to this Indenture.



## ARTICLE IX

### MODIFICATION OF INDENTURE.

Section 9.01. Modification of Indenture. The City and the Trustee, with the prior written consent of the Bondowner, may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture. Upon receipt of the consent of the Bondowner thereto, the City and the Trustee may execute any such supplemental indenture, unless such supplemental indenture affects the rights or obligations of the Borrower or any general partner or limited partner of the Borrower hereunder or under the Loan Agreement or any other document, in which case the City and the Trustee may enter into such supplemental indenture only if they have received the Borrower's, or such general partner's or limited partner's, as applicable, written consent thereto.

Notwithstanding the foregoing, the City and the Trustee may make amendments to Exhibit D hereto at any time, without any requirement for the consent of the Bondowner thereto.

Section 9.02. Effect of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions of this Article IX, this Indenture shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the City, the Trustee, and all owners of Outstanding Bonds shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Opinion of Counsel as to Supplemental Indenture. Subject to the provisions of Section 8.01, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to the provisions of this Article IX is authorized and permitted by this Indenture.

Section 9.04. Notation of Modification on Bonds; Preparation of New Bonds. Bonds authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article IX may bear a notation, in form approved by the City as to any matter provided for in such supplemental indenture, and if such supplemental indenture shall so provide, new Bonds, so modified as to conform, in the opinion of the City, to any modification of this Indenture contained in any such supplemental indenture, may be prepared and executed by the City and authenticated by the Trustee and delivered without cost to the holders of the Bonds then Outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

## ARTICLE X

### DEFEASANCE

Section 10.01: Discharge of Indenture. If the entire indebtedness on all Bonds Outstanding shall be paid and discharged in any one or more of the following ways:

(a) by the payment of the principal of (including redemption premium, if any) and interest on all Bonds Outstanding; or

(b) by the delivery to the Trustee, for cancellation by it, of all Bonds Outstanding;

and if all other sums payable hereunder by the City shall be paid and discharged, then and in that case this Indenture shall cease, terminate and become null and void, and the Trustee shall forthwith execute proper instruments acknowledging satisfaction of and discharging this Indenture. The fees, expenses and charges of the Trustee (including reasonable counsel fees) must be paid in order to effect such discharge. The satisfaction and discharge of this Indenture shall be without prejudice to the rights of the Trustee to charge and be reimbursed by the Borrower for any expenditures which it may thereafter incur in connection herewith.

The City or the Borrower may at any time surrender to the Trustee for cancellation by it any Bonds previously authenticated and delivered which the City or the Borrower lawfully may have acquired in any manner whatsoever, and such Bonds upon such surrender and cancellation shall be deemed to be paid and retired.

Section 10.02. Payment of Bonds after Discharge of Indenture. Notwithstanding any provisions of this Indenture, any moneys deposited with the Trustee or any paying agent in trust for the payment of the principal of, or interest or premium on, any Bonds remaining unclaimed for two (2) years after the principal of all the Outstanding Bonds has become due and payable (whether at maturity or upon call for redemption or by declaration as provided in this Indenture), shall then be paid to the City, and the holders of such Bonds shall thereafter be entitled to look only to the City for payment thereof, and only to the extent of the amount so paid to the City, and all liability of the Trustee or any paying agent with respect to such moneys shall thereupon cease. In the event of the payment of any such moneys to the City as aforesaid, the holders of the Bonds in respect of which such moneys were deposited shall thereafter be deemed to be unsecured creditors of the City for amounts equivalent to the respective amounts deposited for the payment of such Bonds and so paid to the City (without interest thereon).

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Successors of City. All the covenants, stipulations, promises and agreements contained in this Indenture, by or on behalf of the City, shall bind and inure to the benefit of its successors and assigns, whether so expressed or not. If any of the powers or duties of the City shall hereafter be transferred by any law of the State of California, and if such transfer shall relate to any matter or thing permitted or required to be done under this Indenture by the City, then the body or official who shall succeed to such powers or duties shall act and be obligated in the place and stead of the City as in this Indenture provided.

Section 11.02. Limitation of Rights to Parties and Bondholders. Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the City, the Trustee, the Borrower and the Bondowner any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Trustee, the Borrower and the Bondowner. The Bondowner is an intended third party beneficiary of this Indenture.

Section 11.03. Waiver of Notice. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 11.04. Destruction of Bonds. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the City of any Bonds, the Trustee may, in lieu of such cancellation and delivery, destroy such Bonds and deliver a certificate of such destruction to the City.

Section 11.05. Separability of Invalid Provisions. In case any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, but this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 11.06. Notices. It shall be sufficient service of any notice, request, demand or other paper on the City, the Trustee, the Bondowner or the Borrower if the same shall, except as otherwise provided herein, be duly mailed by first class mail, postage prepaid, or given by telephone, telecopier, or other electronic means and confirmed by such mail, and to the other parties and addressed as follows:

The City:

City and County of San Francisco  
City Hall, 1 Dr. Carlton B. Goodlett Place  
Room 316  
San Francisco, CA 94102  
Attention: City Controller  
Telecopier: 415-554-7466

with copies to (none of which  
copies shall constitute notice  
to the City):

City and County of San Francisco  
City Hall, 1 Dr. Carlton B. Goodlett Place  
Room 140  
San Francisco, CA 94102  
Attention: City Treasurer  
Telecopier: 415-554-4672

City and County of San Francisco  
Mayor's Office of Housing and Community  
Development  
One South Van Ness, 5th Floor  
San Francisco, CA 94103  
Attention: Director  
Telecopier: 415-701-5501

Office of the City Attorney  
City Hall, 1 Dr. Carlton B. Goodlett Place  
Room 234  
San Francisco, CA 94102  
Attention: Finance Team  
Telecopier: 415-554-4755

City and County of San Francisco  
Office of Public Finance  
City Hall, 1 Dr. Carlton B. Goodlett Place  
Room 336  
San Francisco, CA 94102  
Attention: Finance Team  
Telecopier: 415-554-4864

The Bondowner:

JPMorgan Chase Bank, N.A.  
c/o Chase Community Development Banking  
560 Mission Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94105  
Attention: James Vossoughi

with a copy to: JPMorgan Chase Bank, N.A.  
Legal Department  
Mail Code: NY1-R-66  
237 Park Avenue, 12<sup>th</sup> Floor  
New York, NY 10017-3140  
Attention: Michael A. Zients, Executive Director  
and Assistant General Counsel

The Trustee: U.S. Bank National Association  
1 California Street, Suite 1000  
San Francisco, California  
Attention: Corporate Trust Department  
Telecopier: [\_\_\_\_\_]

The Borrower: 1064 Mission, L.P.  
c/o Mercy Housing Corporation  
1256 Market Street  
San Francisco, CA 94102  
Attention: Sharon Christen  
Telecopier: 415-355-7111

with a copy to: Gubb & Barshay, LLP  
505 14th Street, Suite 300  
Oakland, CA 94612  
Attention: Evan Gross, Esq.  
Telecopier: 415-781-6600

with a copy to: the Investor Limited Partner

Investor Limited Partner: [Name]  
c/o National Equity Fund  
500 S. Grand Avenue, Suite 2300  
Los Angeles, CA 90071  
Attention: Regional Manager

with a copy to: [Name]  
c/o National Equity Fund  
One SW Columbia Street, Suite 500  
Portland, OR 97204  
Attention: VP, Project Management

and a copy to:

Squire Patton Boggs (US) LLP  
2000 Huntington Center  
41 South High Street  
Columbus, OH 43215  
Attention: Tom Kibbey  
Telecopier: (614) 365-2499

The City, the Trustee, the Bondowner, the Borrower and the Investor Limited Partner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Copies of all notices provided to Borrower under the Loan Documents shall also be provided to the Investor Limited Partner at the address provided in this Section 11.06.

Section 11.07. Authorized Representatives. Whenever under the provisions of this Indenture the approval of the City or the Borrower is required for any action, and whenever the City or the Borrower is required to deliver any notice or other writing, such approval or such notice or other writing shall be given, respectively, on behalf of the City by the Authorized City Representative or on behalf of the Borrower by the Authorized Borrower Representative, and the City, the Trustee and the Borrower shall be authorized to act on any such approval or notice or other writing and neither party hereto nor the Borrower shall have any complaint against the others as a result of any such action taken.

Section 11.08. Evidence of Rights of Bondholders. (a) Any request, consent or other instrument required by this Indenture to be signed and executed by Bondholders may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Bondholders in person or by agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the ownership of any Bonds, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the City if made in the manner provided in this Section 11.08.

(b) The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

(c) The ownership of the Bonds shall be proved by the Bond register maintained pursuant to Section 2.06 hereof. The fact and the date of execution of any request, consent or other instrument and the amount and distinguishing numbers of Bonds held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

(d) Any request, consent or vote of the holder of any Bond shall bind every future holder of the same Bond and the holder of any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the City in pursuance of such request, consent or vote.

(e) In determining whether the holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned by the City or by any other direct or indirect obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City or any other direct or indirect obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, provided that, for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee, as applicable, knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this subsection (d) if the pledgee shall establish to the satisfaction of the Trustee and the City the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City or any other direct or indirect obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Solely for purposes of the limitation expressed in this paragraph (d), the Borrower shall be deemed to be an indirect obligor on the Bonds.

(f) In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Bondholders upon such notice and in accordance with such rules and regulations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

Section 11.09. Waiver of Personal Liability. No officer, official, agent, member of the Board of Supervisors or employee of the City, and no officer, official, agent or employee of the State of California or any department, board or agency of any of the foregoing, shall be individually or personally liable for the payment of the principal of or premium or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such person from the performance of any official duty provided by law or by this Indenture.

Section 11.10. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the date provided therefor in this Indenture and, in the case of any payment, no interest shall accrue for the period from and after such date.

Section 11.11. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same instrument.

Section 11.12. Governing Law, Venue. The formation, interpretation and performance of this Indenture shall be governed by the laws of the State of California. Venue for all litigation arising from or in connection with the Bonds or this Indenture shall be in San Francisco, California.

Section 11.13. Successors. Whenever in this Indenture either the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 11.14. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Section 11.15. Assignment or Delegation by Trustee. The services to be performed by Trustee are personal in character and neither this Indenture nor any duties or obligations of the Trustee hereunder may be assigned or delegated by the Trustee unless first approved by City by written instrument executed and approved in the same manner as this Indenture.



IN WITNESS WHEREOF, the CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA has caused this Indenture to be signed in its name and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the duties of the Trustee hereunder has caused this Indenture to be signed in its name, all as of the day and year first above written.

CITY AND COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_  
[Acting] Director, Mayor's Office of Housing and  
Community Development

Approved as to form:

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Heidi Gewertz  
Deputy City Attorney

[Signature Page to Indenture of Trust – Mission Street Permanent Supportive Housing]

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Vice President

[Signature Page to Indenture of Trust – Mission Street Permanent Supportive Housing]

EXHIBIT A

FORM OF BOND

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THIS BOND MAY BE OWNED ONLY BY A SOPHISTICATED INVESTOR IN ACCORDANCE WITH THE TERMS OF THE INDENTURE, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS BOND (A) REPRESENTS THAT IT IS A SOPHISTICATED INVESTOR AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS BOND TO ANOTHER SOPHISTICATED INVESTOR IN ACCORDANCE WITH THE TERMS OF THE INDENTURE.

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA  
MULTIFAMILY HOUSING REVENUE BONDS  
(Mission Street Permanent Supportive Housing)  
Series 2020A

REGISTERED OWNER: JPMORGAN CHASE BANK, N.A.

PRINCIPAL SUM: UP TO EIGHTY-SEVEN MILLION DOLLARS (\$87,000,000)

The City and County of San Francisco, a municipal corporation and chartered city and county of the State of California, duly organized and existing under its charter and the laws of the State of California (herein called the "City"), for value received, hereby promises to pay (but only out of Revenues as hereinafter provided) to the Registered Owner identified above or registered assigns, on [May 1, 2024] (subject to prior redemption as provided in the Indenture) the sum of up to eighty-seven million dollars (\$87,000,000) in lawful money of the United States, with interest thereon from the date of disbursement from time to time of the purchase price hereof until paid at the rates described below. The actual unpaid principal hereof shall be equal to the funds advanced by the owners of the Bonds in respect of the purchase price thereof, less any portion of the principal hereof paid or redeemed pursuant to the Indenture. Capitalized terms used in this Bond and not defined herein shall have the meanings given such terms in the Indenture referenced below, or in the Note, dated as of [January \_\_, 2020], made by 1064 Mission, L.P., a California limited partnership (the "Borrower"), to the order of the City.

The Bonds shall bear interest, payable on each Interest Payment Date, at the same rate of interest as that of the Note (as such term and the other capitalized terms used in the following sentences of this paragraph are defined in the Indenture). In furtherance of the foregoing, the Bonds shall bear interest at the same rate as the Note. Notwithstanding the foregoing, upon the occurrence of an Event of Default hereunder or under the Loan Agreement, or the occurrence of an event of default under any of the other Loan Documents, the Bonds shall bear interest at the Default Rate (as defined below). Interest on the Bonds shall be computed, on the basis of a 360-day year and actual days elapsed.

This Bond shall bear interest from the date to which interest has been paid on this Bond next preceding the date of authentication hereof, unless this Bond is authenticated as of an Interest Payment Date for which interest has been paid, in which event it shall bear interest from such Interest Payment Date, or unless it is authenticated on or before the first Interest Payment Date, in which event it shall bear interest from the Closing Date.

In the event the City fails to make the timely payment of any monthly payment, the City shall pay interest on the then Outstanding Balance at a default rate (the "Default Rate") equal to the interest rate then in effect under this Bond plus four percent (4%); provided, however, that such rate shall under no circumstances exceed the Maximum Rate.

This Bond is one of a duly authorized issue of bonds of the City designated as "City and County of San Francisco, California Multifamily Housing Revenue Bonds (Mission Street Permanent Supportive Housing), Series 2020A" (the "Bonds"), in the aggregate principal amount of up to \$87,000,000, authorized to be issued pursuant to and in accordance with Section 9.107 of the Charter of the City, Article I of Chapter 43 of the San Francisco Administrative Code of the City and, to the extent applicable, Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (collectively, the "Act"), and issued under and secured by an Indenture of Trust, dated as of January 1, 2020 (the "Indenture"), between the City and U.S. Bank National Association, as trustee (the "Trustee"). Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the security, of the rights, duties and immunities the Trustee, and of the rights and obligations of the City thereunder, to all of the provisions of which Indenture the holder of this Bond, by acceptance hereof, assents and agrees. The proceeds of the Bonds will be used to make a loan to the Borrower pursuant to a Loan Agreement, dated as of January 1, 2020 (the "Loan Agreement") between the City and the Borrower, and under the terms of a Construction Disbursement Agreement, dated as of January 1, 2020, between the Borrower and the owner of the Bonds, all in order to finance the construction of a residential rental project in the City.

NONE OF THE CITY, THE MEMBERS OF ITS BOARD OF SUPERVISORS, THE OFFICERS, OFFICIALS, EMPLOYEES, ATTORNEYS OR AGENTS OF THE CITY, OR ANY PERSON EXECUTING THE BONDS IS LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THEIR ISSUANCE. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY, PAYABLE ONLY AS PROVIDED IN THE INDENTURE, AND ARE NOT A GENERAL OBLIGATION, NOR ARE THEY SECURED BY A PLEDGE OF THE FAITH AND CREDIT, OF THE CITY OR THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER ARE THEY LIABLE ON THE BONDS, NOR ARE THE BONDS PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE CITY EXPRESSLY PLEDGED FOR THE PAYMENT THEREOF UNDER THE INDENTURE. THE BONDS DO NOT CONSTITUTE INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. THE ISSUANCE OF THE BONDS SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY OR THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE

Exhibit A

Page 2

ANY FORM OF TAXATION WHATEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THEIR PAYMENT.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, OFFICIAL, DIRECTOR, EMPLOYEE, AGENT, OR MEMBER OF THE BOARD OF SUPERVISORS OF THE CITY, OR OF ANY SUCCESSOR THERETO, AS SUCH, EITHER DIRECTLY OR THROUGH THE CITY OR ANY SUCCESSOR TO THE CITY, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS OR MEMBERS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

The Bonds are limited obligations of the City and, as and to the extent set forth in the Indenture, are payable solely from, and secured by a pledge of and lien on, the Revenues (as that term is defined in the Indenture), consisting primarily of amounts paid by the Borrower pursuant to the Loan Agreement.

The Bonds shall be subject to redemption prior to maturity, at a price and upon such terms as are provided in the Indenture. No notice of redemption of Bonds need be given to the registered owners of the Bonds, and the owner of this Bond, by acceptance hereof, expressly waives any requirement for any notice of redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture.

This Bond is transferable by the registered owner hereof, in person, or by its attorney duly authorized in writing, at the Principal Office of the Trustee, but only in the manner, subject to the limitations (including those contained in Section 2.05(b) of the Indenture) and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new, fully registered Bond will be issued to the transferee in exchange therefor. The City and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, and the City and the Trustee shall not be affected by any notice to the contrary.

The schedule of drawings attached as Exhibit A hereto shall be used by the Trustee to record the payment of the purchase price of the Bonds from time to time (such purchase price to be paid from time to time by the owners of the Bonds as provided in the Indenture), which shall evidence the principal amount of the Bonds purchased by the owners of the Bonds from time to time. The Trustee shall credit any advanced funds toward the purchase price of the Bonds on the schedule of drawings attached hereto as Exhibit A. The total amount outstanding under the Bonds may not exceed \$87,000,000 at any time and no portion of the purchase price therefor shall be accepted after the first to occur of (i) the Maturity Date (as defined in the Loan Agreement), or (ii) [December 31, 2023].

Exhibit A  
Page 3

The Indenture contains provisions permitting the City and the Trustee to execute supplemental indentures adding provisions to, or changing or eliminating any of the provisions of, the Indenture, subject to the limitations set forth in the Indenture.

The City hereby certifies that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California (including the Act).

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

In the event of any conflict between the terms of this Bond and the terms of the Indenture, the terms of the Indenture shall control.

IN WITNESS WHEREOF, the City and County of San Francisco has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor as of the Closing Date.

CITY AND COUNTY OF SAN FRANCISCO

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

London N. Breed  
Mayor

FORM OF CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture and has been authenticated and registered on January \_\_, 2020.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Vice President



FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

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

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint

\_\_\_\_\_, attorney,  
to transfer the same on the registration books of the Trustee, with full power of substitution in  
the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor.

NOTICE: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

SCHEDULE OF DRAWINGS

<u>Purchase Amount</u>	<u>Purchase Date</u>	<u>Outstanding Principal</u>	<u>Signature of Trustee</u>
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EXHIBIT B

FORM OF INVESTOR'S LETTER

[Date]

City and County of San Francisco  
San Francisco, California

U.S. Bank National Association, as Trustee  
San Francisco, California

\$87,000,000

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA  
MULTIFAMILY HOUSING REVENUE BONDS  
(Mission Street Permanent Supportive Housing)  
Series 2020A

Ladies and Gentlemen:

The undersigned (the "Investor") hereby represents and warrants to you as follows:

1. The Investor proposes to purchase the above-captioned bonds (the "Bonds") issued pursuant to that certain Indenture of Trust, dated as of January 1, 2020 (the "Indenture"), by and between the City and County of San Francisco, California (the "City") and U.S. Bank National Association, as Trustee (the "Trustee"). The Investor understands that the Bonds are not rated by any securities rating agency, and will only be sold to the Investor with the above-addressed parties relying upon the representations and warranties of the Investor set forth herein. The Investor acknowledges that no offering document has been prepared in connection with the issuance and sale of the Bonds. The Investor has requested and received all materials which the Investor has deemed relevant in connection with its purchase of the Bonds (the "Offering Information"). The Investor has reviewed the documents executed in conjunction with the issuance of the Bonds, including, without limitation, the Indenture and the Loan Agreement. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Indenture.

2. The Investor hereby waives the requirement of any "due diligence investigation or inquiry" by the City, by each official of the City, by each employee of the City, by each member of the Board of Supervisors of the City, and by counsel to the City, the Trustee, counsel to the Trustee and Bond Counsel in connection with the authorization, execution and delivery of the Bonds and Investor's purchase of the Bonds. The Investor recognizes and agrees that the City, by each official of the City, each employee of the City, each member of the Board of Supervisors of the City, counsel to the City, the Trustee, counsel to the Trustee and Bond Counsel have made no

Exhibit B  
Page 1

representations or statements (expressed or implied) with respect to the accuracy or completeness of any of the materials reviewed by the Investor in connection with the Investor's purchase of the Bonds. In making an investment decision, the Investor is relying upon its own examination of the City, the Borrower, the Project and the terms of the offering.

3. The Investor has been provided an opportunity to ask questions of, and the Investor has received answers from, representatives of the City and the Borrower regarding the terms and conditions of the Bonds, and the Investor has obtained all additional information requested by it in connection with the Bonds.

4. The Investor has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bonds in particular, and is capable of evaluating the merits and risks involved in an investment in the Bonds. The Investor is able to bear the economic risk of, and an entire loss of, an investment in the Bonds.

5. The Investor is purchasing the Bonds solely for its own account for investment purposes and has no present intention to resell or distribute the Bonds, provided that the Investor reserves the right to transfer or dispose of the Bonds, at any time, and from time to time, in its complete and sole discretion, subject, however, to the restrictions described in paragraphs 6 through 8 of this Letter. The Investor hereby agrees that the Bonds may only be transferred in whole in accordance with the Indenture, including Article II thereof, to an investor who must execute and deliver to the parties addressed above a form of this Investor's Letter.

6. The Investor agrees that it will only offer, sell, pledge, transfer or exchange the Bonds (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended (the "1933 Act"), (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Bonds and the Indenture. The Investor agrees that in the case of any transfer of a legal or beneficial interest in the Bonds that (i) the Investor shall remain the Bondowner under the Indenture and (ii) that any document, agreement or instrument transferring such legal or beneficial interest shall contain an acknowledgement thereof by the transferee.

7. The Investor is a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act of 1933 ("Rule 144A") or an "accredited investor" as defined in Rule 501 promulgated under the Securities Act of 1933 as amended ("Rule 501"); it understands that the Bonds may be offered, resold, pledged or transferred only to a person who is a "qualified institutional buyer," as defined in Rule 144A or an "accredited investor" as defined in Rule 501, in compliance with Rule 144A.

8. If the Investor sells the Bonds, or any portion thereof, the Investor or its agent will obtain for the benefit of each of you from any subsequent purchaser an Investor Letter in the form of this Letter or such other materials as are required by the Bonds and the Indenture to effect such

sale and purchase. The Investor understands and agrees that the Trustee is not authorized to register any transfer of the Bonds prior to receipt of such Investor Letter.

9. None of the Trustee, Bond Counsel, counsel to the City, the City, its Board of Supervisors, or any of its employees or agents will have any responsibility to the Investor for the accuracy or completeness of information obtained by the Purchaser from any source regarding the Project, the City, the Borrower or their financial conditions or regarding the Bonds, the provisions for payment thereof, or the sufficiency of any security therefor, including, without limitation, any information specifically provided by any of such parties contained in the Offering Information. The Investor acknowledges that, as between Investor and all of such parties: (a) the Investor has assumed responsibility for obtaining such information and making such review as the Investor has deemed necessary or desirable in connection with its decision to purchase the Bonds and (b) the Offering Information and any additional information specifically requested from the City or the Borrower and provided to the Investor prior to closing constitute all the information and review, with the investigation made by Investor (including specifically the Investor's investigation of the City, the Project and the Borrower) prior to its purchase of the Bonds, that Investor has deemed necessary or desirable in connection with its decision to purchase the Bonds.

10. The Investor understands that (a) the Bonds have not been registered with any federal or state securities agency or commission, and (b) no credit rating has been sought or obtained with respect to the Bonds, and the Investor acknowledges that the Bonds are a speculative investment and that there is a high degree of risk in such investment.

11. The Investor acknowledges that the Bonds are a limited obligation of the City, payable solely from the revenues or other amounts provided by or at the direction of the Borrower, and is not an obligation payable from the general revenues or other funds of the City, the State of California or any political subdivision of the State of California. The Investor acknowledges that the City is issuing the Bonds on a conduit, nonrecourse basis, and has no continuing obligations with respect thereto except as expressly set forth in the Indenture.

12. The Investor has the authority to purchase the Bonds and to execute this letter and other documents and instruments required to be executed by the Investor in connection with its purchase of the Bonds. The individual who is executing this letter on behalf of the undersigned is a duly appointed, qualified and acting officer of the Investor and authorized to cause the Investor to make the certifications, representations and warranties contained herein by the execution of this letter on behalf of the Investor.

13. The Investor acknowledges that no offering document has been produced in connection with the issuance or sale of the Bonds.

14. The Investor agrees to indemnify and hold harmless the City, the City's officials, officers, employees and agents, and the members of the governing board of the City with respect to any claim asserted against any of them that is based upon the Investor's sale, transfer or other

disposition of its interests in the Bonds in violation of the provisions hereof or of the Indenture or any inaccuracy in any statement made by the Investor in this letter.

15. The Investor acknowledges that interest on a Bond is not excludable from gross income of the owner thereof for federal income tax purposes for any period during which such Bond is owned by a person who is a substantial user of the facilities financed by the Bonds or any person considered to be related to such substantial user (within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended).

The Investor acknowledges that the sale of the Bonds to the Investor is made in reliance upon the certifications, representations and warranties herein by the addressees hereto.

Very truly yours,

[PURCHASER]

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

\$87,000,000

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA  
MULTIFAMILY HOUSING REVENUE BONDS  
(Mission Street Permanent Supportive Housing)  
Series 2020A

Requisition No.: \_\_\_\_\_

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

REQUISITION CERTIFICATE

TO: U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE UNDER THE INDENTURE OF TRUST,  
DATED AS OF JANUARY 1, 2020, BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO,  
CALIFORNIA, AS ISSUER, AND SAID TRUSTEE, WITH RESPECT TO THE CAPTIONED BONDS

1064 Mission, L.P., a California limited partnership (the "Borrower"), hereby requests that  
the following amounts be paid from the following account(s) of the Construction Fund to the  
following payees for the following purposes:

<u>Amount</u>	<u>Account of the Construction Fund</u>	<u>Payee and Address</u>	<u>Purpose</u>
---------------	---	--------------------------	----------------

Less Retainage \$ \_\_\_\_\_

The Borrower hereby certifies that:

(1) obligations in the stated amounts have been incurred and performed at the Project  
and are presently due and payable and that each item thereof is a Project Cost or an Issuance  
Cost and is proper charge against the Construction Fund and has not been the subject of a  
previous withdrawal from the Construction Fund,

(2) to the best of the undersigned's knowledge there has not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation,

(3)(A) obligations as stated on the requisition have been properly incurred, (B) such work was actually performed or such materials or supplies were actually furnished or installed in or about the Project, (C) if contested, bond has been made by the Borrower and (D) either such materials or supplies are not subject to any lien or security interest or any such lien or security interest will be released or discharged upon payment of the requisition,

(4) all rights, title and interest to any and all personal property acquired with the proceeds of the requisition is vested in the Borrower,

(5) the Borrower is in compliance with all of the Borrower's covenants contained in the Loan Agreement and the Tax Certificate,

(6) such disbursement when added to all other disbursements made to date results in at least ninety-five percent (95%) of the proceeds of the Bonds, including investment earnings, having been used for Qualified Project Costs, and

(7) all representations and warranties of the Borrower contained in the Loan Agreement are on the date hereof true and accurate.

Requested this \_\_\_\_ day of \_\_\_\_\_.

1064 MISSION, L.P.,  
a California limited partnership

By: 1064 Mission LLC,  
a California limited liability company,  
its managing general partner

By: ECS Housing Corporation,  
a California nonprofit public benefit  
corporation, its sole member/manager

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

By: Mercy Housing 1064 Mission LLC,  
a California limited liability company,  
a general partner



By: Mercy Housing Calwest,  
a California nonprofit public benefit corporation,  
its sole member/manager

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

Approved this \_\_\_\_ day of \_\_\_\_\_.

Approved this \_\_\_\_ day of \_\_\_\_\_.

JPMORGAN CHASE BANK, N.A., as  
Bondowner

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

EXHIBIT D

CITY AND COUNTY OF SAN FRANCISCO  
MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Indenture as if set forth in the body thereof. Capitalized terms used but not defined in this Exhibit D shall have the meanings given in the Indenture. As used herein, the Trustee shall be known as the "Obligated Party".

1. Nondiscrimination; Penalties.

(a) *Non Discrimination in Contracts.* The Obligated Party shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. The Obligated Party shall incorporate by reference in any subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require any subcontractors to comply with such provisions. The Obligated Party is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) *Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2.* The Obligated Party does not as of the date of this Indenture, and will not during the term of this Indenture, 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 employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) *Condition to Contract.* As a condition to the Indenture, the Obligated Party shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

2. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Indenture. By entering into this Indenture, the Obligated Party confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

3. Tropical Hardwood and Virgin Redwood Ban. Under San Francisco Environment Code Section 804(b), the City urges the Obligated Party not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require the Obligated Party to remove from, City facilities personnel of such Obligated Party who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

5. Compliance with Americans with Disabilities Act. The Obligated Party shall provide the services specified in the Agreement in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

6. Sunshine Ordinance. The Obligated Party acknowledges that this Agreement and all records related to its formation, such Obligated Party's performance of services provided under the Agreement, and the City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

7. Limitations on Contributions. By executing this Agreement, the Obligated Party 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. The prohibition on contributions applies to each prospective party to the contract; each member of the Obligated Party's board of directors; the Obligated Party's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in such Obligated Party; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by such Obligated Party. The Obligated Party must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

8. Requiring Minimum Compensation for Covered Employees. The Obligated Party shall pay covered employees no less than the minimum compensation required by San Francisco

Administrative Code Chapter 12P. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12P. By entering into this Indenture, the Obligated Party certifies that it is in compliance with Chapter 12P.

9. Requiring Health Benefits for Covered Employees. The Obligated Party shall comply with San Francisco Administrative Code Chapter 12Q. The Obligated Party shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12Q.

10. Prohibition on Political Activity with City Funds. In performing the services provided under the Indenture, the Obligated Party shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12G.

11. Nondisclosure of Private, Proprietary or Confidential Information. If this Agreement requires the City to disclose "Private Information" to the Obligated Party within the meaning of San Francisco Administrative Code Chapter 12M, the Obligated Party shall use such information consistent with the restrictions stated in Chapter 12M and in this Indenture and only as necessary in performing the services provided under the Indenture. The Obligated Party is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services provided under the Indenture, the Obligated Party may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to the Obligated Party, such information must be held by such Obligated Party in confidence and used only in performing the Indenture. The Obligated Party shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

12. Consideration of Criminal History in Hiring and Employment Decisions. The Obligated Party agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Indenture. The text of Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of the Obligated Party's obligations under Chapter 12T is set forth in this Section. The Obligated Party is required to comply with all of the applicable provisions of Chapter 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Indenture shall have the meanings assigned to such terms in Chapter 12T.

The requirements of Chapter 12T shall only apply to the Obligated Party's operations to the extent those operations are in furtherance of the performance of this Indenture, shall apply only to applicants and employees who would be or are performing work in furtherance of this Indenture, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco which excludes City property. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

13. Reserved.

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

15. Conflict of Interest. By entering into the Indenture, the Obligated Party certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Indenture.

16. Assignment. The services provided under the Indenture to be performed by the Obligated Party are personal in character and neither this Indenture nor any duties or obligations may be assigned or delegated by the Obligated Party unless first approved by the City by written instrument executed and approved in the same manner as this Indenture. Any purported assignment made in violation of this provision shall be null and void.

17. Food Service Waste Reduction Requirements. The Obligated Party shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the provided remedies for noncompliance.

18. Cooperative Drafting. This Indenture has been drafted through a cooperative effort of the City and the Obligated Party, and all parties have had an opportunity to have the Indenture

Exhibit D

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reviewed and revised by legal counsel. No party shall be considered the drafter of this Indenture, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Indenture.

19. Laws Incorporated by Reference. The full text of the laws listed in this Exhibit, including enforcement and penalty provisions, are incorporated into this Indenture by reference. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Exhibit are available at [www.sfgov.org](http://www.sfgov.org) under "Open Gov."

20. Sugar-Sweetened Beverage Prohibition. The Obligated Party agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Indenture.

21. First Source Hiring Program. The Obligated Party must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Indenture, and the Obligated Party is subject to the enforcement and penalty provisions in Chapter 83.

22. Prevailing Wages. Obligated Party understands and agrees that all provisions of Section 1770, et seq., of the California Labor Code are required to be incorporated into every contract for any public work or improvement and are hereby incorporated into this Indenture. Obligated Party also understands and agrees that all provisions of Sections 6.22E and 6.22F of the San Francisco Administrative Code are hereby incorporated into this Indenture. Obligated Party also understands and agrees that all applicable provisions of the Davis-Bacon Act (40 U.S.C. §§141 et seq.) are hereby incorporated into this Indenture.

## PUBLIC DISCLOSURES RELATING TO CONDUIT REVENUE OBLIGATIONS

Pursuant to California Government Code Section 5852.1, the borrower (the "Borrower") identified below has provided the following required information to the City and County of San Francisco (the "City") prior to the City's regular meeting (the "Meeting") of its Board of Supervisors (the "Board") at which Meeting the Board will consider the authorization of conduit revenue obligations (the "Bonds") as identified below.

1. Name of Borrower: **1064 Mission, LP, a California limited partnership.**
2. Board of Supervisors Meeting Date: **November 19, 2019.**
3. Name of Bond Issue / Conduit Revenue Obligations: **City and County of San Francisco Multifamily Housing Revenue Bonds (Mission Street Permanent Supportive Housing) Series 2020A.**
4.  Private Placement Lender or Bonds Purchaser,  Underwriter or  Financial Advisor (mark one) engaged by the Borrower from which the Borrower obtained the following required good faith estimates relating to the Bonds:
  - (A) The true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of Bonds (to the nearest ten-thousandth of one percent): **3.47% (estimated variable rate during construction; no permanent debt).**
  - (B) The finance charge of the Bonds, which means the sum of all fees and charges paid to third parties: **\$701,027 (\$697,427 estimated to be paid upfront and \$3,600 estimated to be paid during the term of the Bonds and through the end of the Regulatory Agreement compliance period).**
  - (C) The amount of proceeds received by the public body for sale of the Bonds less the finance charge of the Bonds described in subparagraph (B) and any reserves or capitalized interest paid or funded with proceeds of the Bonds: **\$71,240,618 (\$76,125,342 estimated initial par less \$4,884,724 of estimated capitalized interest; all finance charges funded from a source other than Bond proceeds).**
  - (D) The total payment amount, which means the sum total of all payments the borrower will make to pay debt service on the Bonds plus the finance charge of the Bonds described in subparagraph (B) not paid with the proceeds of the Bonds (which total payment amount shall be calculated to the final maturity of the Bonds): **\$76,826,369 (consisting of repayment of an estimated \$76,125,342 after construction, no permanent debt and estimated finance charges identified in (B)).**

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

Dated: Oct 21, 2019



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

915 Capitol Mall, Room 311  
Sacramento, CA 95814  
p (916) 653-3255  
f (916) 653-6827  
cdlac@treasurer.ca.gov  
www.treasurer.ca.gov/cdlac

MEMBERS

FIONA MA, CPA, CHAIR  
STATE TREASURER

GAVIN NEWSOM  
GOVERNOR

BETTY T. YEE  
STATE CONTROLLER

EXECUTIVE DIRECTOR

LARRY FLOOD

October 16, 2019

Daniel Adams  
Acting Director  
City and County of San Francisco  
1 South Van Ness Avenue  
San Francisco, CA 94103

**RE: RESOLUTION ATTESTING TO THE TRANSFER OF PRIVATE ACTIVITY BOND ALLOCATION**

Dear Mr. Adams:

Enclosed is a copy of Resolution No. 19-152, adopted by the California Debt Limit Allocation Committee (the "Committee") on October 16, 2019, authorizing the City and County of San Francisco (the "Applicant") to use \$87,000,000 of its unused Carryforward Allocation for the Mission Street Supportive Housing Project.

While your application was for a portion of the 2019 State Ceiling on Qualified Private Activity Bonds, because you had remaining carryforward allocation, the Committee decided to transfer some or all of that allocation to this Project. The Resolution establishes the terms and conditions under which the allocation has been granted. Please read it carefully and keep a copy in your permanent files.

The following is additional information pertaining to the use of the allocation for this Project:

1. **Performance Deposit:** Pursuant to Section 5050 of the Committee's Regulations, the performance deposit certified in support of this project (\$100,000) is to remain on deposit until you receive written authorization from the Committee that it may be released. This written release will be provided once the Committee receives the "Report of Action Taken" form indicating that the allocation transferred was used for the issuance of bonds for the specific Project, a copy of the conformed regulator agreement and the payment of the second installment of the CDLAC filing fee. A copy of the conformed regulatory agreement should be sent electronically to [CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov). The full amount of the deposit will be released upon the Committee's approval if at least 80% of the allocation is used for the issuance of bonds. If an amount less than 80% of the allocation is used to issue bonds, a proportionate amount of the deposit will be subject to forfeiture.
2. **IRS Certification:** The IRS-required certification will be prepared and sent to bond counsel once the Committee receives the "Report of Action Taken" form.
3. **Second Installment of Filing Fee:** Enclosed is an invoice for this Project. The invoice attached herein should be considered final, due and payable upon the issuance of bonds.

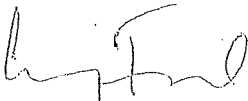


Daniel Adams  
October 16, 2019  
Page 2

4. Compliance: The Certification of Compliance II or equivalent form is to be submitted by the Project Sponsor to the Applicant by the Applicant's specified deadline, but no later than March 1st annually until the project's Certificate of Completion has been submitted to the Applicant. Following the submission of the Certificate of Completion or equivalent form to the Applicant, the Certification of Compliance II is to be submitted March 1st every three (3) years thereafter. In addition, an Annual Applicant Public Benefits and On-going Compliance Self-Certification (Self Certification) form must be submitted by the Applicant online every year until the Certificate of Completion has been submitted to the Applicant. After the completion of the project has been reported, the Self Certification will be required to be submitted March 1st every three years thereafter pursuant to Section 5144 of the CDLAC Regulations. Verification to CDLAC of income and rental information is not required in advance of the submission of the Certificate of Completion. A copy of the Certification of Compliance II and the Certificate of Completion forms may be found at this website location: <http://www.treasurer.ca.gov/cdlac>. Failure to submit compliance may result in disqualification from future program participation.

Please consult the Committee's Regulations for a full explanation of the use of allocation. Do not hesitate to contact me should you have questions.

Sincerely,



Larry Flood  
Executive Director

Enclosures

cc: Anne Romero, City and County of San Francisco  
Ronald E. Lee, Esq., Jones Hall, A Professional Law Corporation  
Sharon Christen, 1064 Mission, LP

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

RESOLUTION NO. 19-152

A RESOLUTION TRANSFERRING STATE CEILING  
ON QUALIFIED PRIVATE ACTIVITY BONDS FOR A  
QUALIFIED-RESIDENTIAL RENTAL PROJECT IN 2019

WHEREAS, the California Debt Limit Allocation Committee ("Committee") has received an application ("Application") from the City and County of San Francisco ("Applicant") for the transfer to the Applicant of a portion of the 2019 State Ceiling on Qualified Private Activity Bonds under Section 146 of the Internal Revenue Code of 1986, as amended, for use by the Applicant to issue bonds or other obligations ("Bonds") for a Project as specifically described in Exhibit A ("Project") (capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Regulations of the Committee implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds); and

WHEREAS, the Project Sponsor has represented and the Applicant has confirmed in the Application certain facts and information concerning the Project; and

WHEREAS, in evaluating the Project and allocating a portion of the State Ceiling on Qualified Private Activity Bonds to the Applicant for the benefit of the Project, the Committee has relied upon the written facts and information represented in the Application by the Project Sponsor and the Applicant; and

WHEREAS, previously the Committee transferred to the Applicant a portion of the State Ceiling on Private Activity Bonds for rental projects on a carryforward basis ("Carryforward Allocation"); and

WHEREAS, to fully utilize the remaining Carryforward Allocation, the Committee must approve its transfer to other projects with the same issuer; and

WHEREAS, it is appropriate for the Committee to make a transfer of a portion of the 2019 State Ceiling on Qualified Private Activity Bonds ("Allocation") in order to benefit such Project described in the Application and/or to authorize the transfer of the remaining Carryforward Allocation to the Projects described in the Application.

NOW, THEREFORE, the California Debt Limit Allocation Committee resolves as follows:

Section 1. There is hereby transferred to the Applicant authorization to use \$87,000,000 of its remaining Carryforward for the Project. Such Allocation may be used only by the Applicant and only for the issuance of Bonds for the Project, as specifically described in Exhibit A. All of the terms and conditions of Exhibit A are incorporated herein as though set forth in full (this resolution, together with Exhibit A are hereafter referred to collectively as this "Resolution").

Section 2. The terms and conditions of this Resolution shall be incorporated in appropriate documents relating to the Bonds. The Project Sponsor and the Applicant, and all their respective successors and assignees, will be bound by such terms and conditions. The Applicant shall monitor the Project for compliance with the terms and conditions of this Resolution. In addition, the Project shall be subject to the monitoring provisions of California Code of Regulations, Title 4, Section 10337(c) and Section 5220 of the Committee's Regulations.

Section 3. Any modification to the Project made prior to the issuance of the Bonds that impacts the resolution must be reported to the Executive Director and, if the Executive Director determines such modification to be material in light of the Committee's Regulations, shall require reconsideration by the Committee before the Allocation may be used for the Project. After Bonds are issued, the terms and conditions set forth in this Resolution shall be enforceable by the Committee through an action for specific performance or any other available remedy. In addition, after bonds are issued, changes to Items #1, #6, #7, #10 thru #12, #14 thru #16, #18 thru #26, and #37 of the Exhibit A require Committee or Executive Director approval for the term of commitment; changes to item #2, #13, #17, #27, and #39 thru #41 of the Exhibit A cannot be altered; changes to Items #3 thru #5 of the Exhibit A require no Committee or Executive Director approval but any alterations must be reported to CDLAC staff for the affordability period; changes to Items #8 and #9 of the Exhibit A require no CDLAC notification; and changes to Items #28 thru #36 and #38 of the Exhibit A require Committee or Executive Director approval only prior to the Project being Placed in Service by the CA Tax Credit Allocation Committee (TCAC).

**Section 4.** Any material changes in the structure of the bond sale prior to the issuance of the Bonds and not previously approved by the Committee shall require approval of the Committee Chair or the Executive Director.

**Section 5.** The transfer of proceeds from the sale of bonds to a project other than the Project subject to this Resolution is allowable only with the prior approval of the Executive Director in consultation with the Chair, except when the Project is unable to utilize any of its allocation and the Applicant is requesting the transfer of the entire Allocation to different project(s). In such case, prior approval of the Committee must be obtained. Any transfer made pursuant to this section may only be made to another project of the same issuer that has been previously approved by the Committee.

**Section 6.** The Applicant is not authorized to use any Allocation transferred hereby from the 2019 State Ceiling to make a carryforward election with respect to the Project. The Applicant is not authorized to transfer any Allocation or Carryforward Allocation to any governmental unit in the State other than this Committee.

**Section 7.** The Allocation transferred herein to the Applicant shall automatically revert to this Committee unless the Applicant has issued Bonds for the Project by the close of business on April 13, 2020. Upon the discretion of the Executive Director, the expiration may be extended pursuant to the provisions in Chapter 1, Article 8 of the Committee's Regulations.

**Section 8.** Within twenty-four (24) hours of using the Allocation to issue Qualified Private Activity Bonds, the Applicant shall notify the Committee at CDLAC@treasurer.ca.gov that the Allocation has been used. This notice shall identify the Applicant, the project or program, the date the Allocation was used and the amount of Allocation used.

**Section 9.** Within fifteen (15) calendar days of the Bond closing, the Applicant or its counsel shall formally transmit to the Committee information regarding the issuance of the Bonds by submitting a completed Report of Action Taken in a form prescribed by and made available by the Committee.

**Section 10.** Any differences between the amount of Bonds issued and the amount of the Allocation granted in Section 1 of this Resolution shall automatically revert to the Committee. If at any time prior to the expiration date set forth in Section 7 hereof the Applicant determines that part or all of the Allocation will not be used to issue Bonds by that date, the Applicant shall take prompt action by resolution of its governing Board or by action of its authorized officer to return such unused Allocation to the Committee. Any unused amount of the Carryforward Allocation authorized in Section 1 of the Resolution shall be retained by the Applicant for the period allowed by Section 146(f)(3)(A) of the Internal Revenue Code regarding carryforward elections. Use of any unused Carryforward Allocation shall be in accordance with Section 5132 of the Committee's Regulations regarding carryforward elections.

**Section 11.** The staff of the Committee is authorized and directed to transmit a copy of this Resolution to the Applicant together with a request that the Applicant retain a copy of this Resolution in the Applicant's official records for the term of the Bonds under this Allocation or the term of the income and rental restrictions whichever is longer. The Committee staff is further directed to retain a copy of this Resolution in the files of the Committee (or any successor thereto) for the same period of time.

**Section 12.** In consideration of the Allocation transferred to, and the Carryforward Allocation authorized for use by the Applicant and the Project Sponsor, the Applicant and the Project Sponsor shall comply with all of the terms and conditions contained in this Resolution and ensure that these terms and conditions are included in the documents related to the Bonds. Further, the Applicant and the Project Sponsor expressly agree that the terms and conditions of this Resolution may be enforced by the Committee through an action for specific performance or any other available remedy, provided however, that the Committee agrees not to take such action or enforce any such remedy that would be materially adverse to the interests of Bondholders. In addition, the Applicant and the Project Sponsor shall ensure that the Bond documents, as appropriate, expressly provide that the Committee is a third party beneficiary of the terms and conditions set forth in this Resolution.

Section 13. The Certification of Compliance II or equivalent form is to be submitted by the Project Sponsor to the Applicant by the Applicant's specified deadline, but no later than March 1st annually until the project's Certificate of Completion has been submitted to the Applicant. Following the submission of the Certificate of Completion or equivalent form to the Applicant, the Certification of Compliance II is to be submitted March 1st every three years thereafter. In addition, an Annual Applicant Public Benefits and On-going Compliance Self-Certification (Self Certification) form must be submitted by the Applicant online every year until the Certificate of Completion has been submitted to the Applicant. After the completion of the project has been reported, the Self Certification will be required to be submitted March 1st every three years thereafter pursuant to Section 5144 of the CDLAC Regulations. Verification to CDLAC of income and rental information is not required in advance of the submission of the Certificate of Completion. A copy of the Certification of Compliance II and the Certificate of Completion forms may be found at this website location: <http://www.treasurer.ca.gov/cdlac>. Failure to submit compliance may result in disqualification from future program participation.

Section 14. This Resolution shall take effect immediately upon its adoption.


\* \* \*

CERTIFICATION

I, Larry Flood, Executive Director of the California Debt Limit Allocation Committee, hereby certify that the above is a full, true and correct copy of the Resolution adopted at a meeting of the Committee held in the State Personnel Board Building, 801 Capitol Mall, Room 150, Sacramento, California 95814, on October 16, 2019 at 10:11 a.m. with the following votes recorded:

AYES: Jovan Agee for State Treasurer Fiona Ma, CPA  
Gayle Miller for Governor Gavin Newsom  
Anthony Sertich for State Controller Betty T. Yee

NOES: None  
ABSTENTIONS: None  
ABSENCES: None

  
\_\_\_\_\_  
Larry Flood, Executive Director

Date: October 16, 2019

RESOLUTION NO. 19-152  
(QUALIFIED RESIDENTIAL RENTAL PROJECT)  
EXHIBIT A

1. Applicant: City and County of San Francisco
2. Application No.: 19-545
3. Project Sponsor: 1064 Mission, LP (1064 Mission LLC and Mercy Housing 1064 Mission LLC)
4. Project Management Co.: Caritas Management Corporation
5. Project Name: Mission Street Supportive Housing
6. Type of Project: New Construction/Family
7. Location: San Francisco, CA
8. Private Placement Purchaser: JPMorgan Chase Bank, N.A.  
Cash Flow Bond: Not Applicable

All units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the CDLAC resolution; a limitation that tenants pay no more than 30% of their income and 1.5 persons per bedroom occupancy standard to determine the applicable rent.

9. Public Sale: Not Applicable  
Credit Enhancement Provider: Not Applicable
10. Total Number of Units: 256 plus 2 unrestricted manager units
11. Total Number of Restricted Rental Units: 256
12. The term of the income and rental restrictions for the Project will be at least 55 years from the date 50% occupancy is achieved or when the project is otherwise placed in service.
13. The Regulatory Agreement shall not terminate prior to the end of the CDLAC Resolution affordability term in the event of foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Cash Flow Permanent Bonds.
14. The Project will utilize Gross Rents as defined in Section 5170 of the Committee's Regulations.  
**Applicable**
15. Income and Rental Restrictions:
  - a. Federally Bond-Restricted Set-aside Units:  
At least 40% of the total units will be restricted at 60% of the Area Median Income.
  - b. Other Restricted Units  
For the entire term of the income and rental restrictions, the Project will have:  
  
At least 256 Qualified Residential units rented or held vacant for rental for persons or families whose income is at or below 50% of the Area Median Income.

RESOLUTION NO. 19-152

Exhibit A

Page 2 of 5

16. 10% of the units will be restricted to households with incomes no greater than 50% of the Area Median Income in accordance with Section 5191 of the Committee's Regulations. These units will be distributed as follows:
- Applicable**
- |                |    |
|----------------|----|
| Studios:       | 26 |
| One-bedroom:   | 0  |
| Two-bedroom:   | 0  |
| Three-bedroom: | 0  |
| Four-bedroom:  | 0  |
| Five-bedroom   | 0  |
17. For acquisition and rehabilitation projects, a minimum of \$15,000 in hard construction costs will be expended for each Project unit.  
**Not Applicable**
18. A minimum of \$0,000 of public funds will be expended for the Project.  
**Not Applicable**
19. At a minimum, the financing for the Project shall include a Taxable Tail in the amount of \$0,000. Taxable debt may only be utilized for Project related expenses, not for the cost of issuance for which the Project Sponsor could otherwise have used tax-exempt financing.  
**Not Applicable**
20. If the Project received points for having large family units for the entire term of the income and rental restrictions, the Project will have at least 0 three-bedroom or larger units.  
**Not Applicable**
21. For a period of fifteen (15) years after the Project is placed in use, the Project will provide to Project residents high-speed Internet or wireless (WiFi) service in each Project unit.  
**Not Applicable**
22. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents an after school program of an ongoing nature on-site or there must be an after school program available to Project residents within 1/2 mile of the Project except where Project will provide no cost round trip transportation. The program shall include, but is not limited to: tutoring, mentoring, homework club, art, and recreational activities to be provided weekdays throughout the school year for at least ten (10) hours per week.  
**Not Applicable**
23. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents instructor-led educational, health and wellness, or skill building classes. The classes shall include, but are not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation & preparation and smoking cessation. Classes shall be provided at a minimum of 84 hours per year (drop-in computer labs, monitoring and technical assistance shall not qualify) and be located within 1/2 mile of the Project except where Project will provide no cost round trip transportation.  
**Not Applicable**
24. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents 20 hours or more per week of licensed childcare on-site, or there must be 20 hours or more per week of licensed childcare available to Project residents within 1/2 mile of the Project except where Project will provide no cost round trip transportation.  
**Not Applicable**

RESOLUTION NO. 19-152

Exhibit A

Page 3 of 5

25. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents health and wellness services and programs within 1/2 mile of the Project or except where the Project will provide no cost round trip transportation. Such services and programs shall provide individualized support for tenants (not group classes) but need to be provided by licensed individuals or organizations. The services shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. Services shall be provided for a minimum of 100 hours per year.

Not Applicable

26. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents a bona fide service coordinator. The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.).

Not Applicable

27. Minimum sustainable specifications will be incorporated into the project design per Section 5205 of the CDLAC Regulations.

Applicable

Section Waived:

<input type="checkbox"/>	Energy Efficiency
<input type="checkbox"/>	Landscaping
<input type="checkbox"/>	Roofs
<input type="checkbox"/>	Exterior Doors
<input type="checkbox"/>	Appliances (ENERGY STAR)
<input type="checkbox"/>	Window Coverings
<input type="checkbox"/>	Water Heater
<input type="checkbox"/>	Floor Coverings
<input type="checkbox"/>	Insulation (Greengard Emission Criteria)

28. The project commits to becoming certified under any one of the following programs upon completion:

- |    |  |                |
|----|--|----------------|
| a. | Leadership in Energy & Environmental Design (LEED for Homes)               | Not Applicable |
| b. | Green Communities  | Not Applicable |
| c. | Passive House Institute US (PHIUS)   | Not Applicable |
| d. | Passive House  | Not Applicable |
| e. | Living Building Challenge  | Not Applicable |
| f. | National Green Building Standard ICC / ASRAE – 700 silver or higher rating | Not Applicable |
| g. | Green Point Rated Multifamily Guidelines                                   | Not Applicable |
| h. | WELL   | Not Applicable |

29. The Project is a New Construction or Adaptive Reuse Project that commits to Energy Efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6 of California Building Code (Percentage Better than the 2016 Standards):

- |    |     |                |
|----|-----|----------------|
| a. | 7%  | Not Applicable |
| b. | 12% | Not Applicable |





RESOLUTION NO. 19-152

Exhibit A

Page 5 of 5

39. As specified in Section 5144(b) of the Committee's Regulations, sponsors will be required to utilize TCAC's Compliance Manual specifically Section VI: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy. No less than every three (3) years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution: TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, evidence of the verifying income computation, and unit lease.

Applicable

40. As specified in Section 5144(c) of the Committee's Regulations, compliance with the income and rental requirements of the Federally Bond-Restricted Units identified in the Committee Resolution and the Bond Regulatory Agreement must be demonstrated by the Applicants initial review of 20% of all management files associated with the Federally Bond-Restricted units and subsequent review every three (3) years of 20% of all management files associated with the Federally Bond-Restricted units.

Applicable

41. As specified in Section 5144(d) of the Committee's Regulations, applicants are required to ensure an onsite inspection as well as an on-site review of the 20% Federally Bond-Restricted units is performed every 3 years after the Qualified Project Period has commenced.

The following entity will conduct the site and file inspections:

Not Applicable

STATE OF CALIFORNIA  
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE  
ACCOUNTING SERVICES  
915 Capitol Mall, Room 311  
Sacramento, CA 95814  
(916) 653-3255

FILING FEE INVOICE

**PAYMENT IS DUE WITHIN 30 DAYS OF BOND CLOSING**

Date: October 16, 2019

Invoice No.: FY 19-082

Application No.: 19-545

Analyst Initials: SL

To: Anne Romero  
Project Manager  
City and County of San Francisco  
1 South Van Ness Avenue  
San Francisco, CA 94103

---

2<sup>nd</sup> Installment of fee levied pursuant to Section 8869.90 of the California Government Code:

NAME OF ISSUER: City and County of San Francisco  
NAME OF PROJECT: Mission Street Supportive Housing  
ALLOCATION AWARD DATE: October 16, 2019  
ALLOCATION AWARD AMOUNT: \$87,000,000

<u>AMOUNT DUE:</u>	Allocation award x .00035	=	\$	30,450.00
	Less initial application fee	=	-\$	1,200.00
	<b>Amount Due</b>	=	\$	<b>29,250.00</b>

Issuer or bond trustee to complete the following (please use ink):

BOND ISSUANCE DATE:

PRINCIPAL AMOUNT OF BOND ISSUE: \$

AMOUNT OF BOND ALLOCATION USED: \$

The application fee is based on the amount of allocation used to issue bonds. Please complete the following *only if* the amount of allocation used is less than the amount of allocation awarded, and remit the *revised* amount due.

<u>REVISED AMOUNT DUE:</u>	Amount issued x .00035	=	\$	
	Less initial application fee	=	-\$	1,200.00
	<b>Revised Amount Due</b>	=	\$	

PLEASE WRITE APPLICATION NUMBER ON YOUR CHECK; OR  
RETURN A COPY OF THIS INVOICE WITH YOUR PAYMENT.

OFFICE OF THE MAYOR  
SAN FRANCISCO



RECEIVED  
LONDON N. BREED  
BOARD OF SUPERMAYORS  
SAN FRANCISCO

2019 OCT 29 PM 4:25

BY 



TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Sophia Kittler  
RE: Multifamily Housing Revenue Bonds - 1064 Mission Street - Not to Exceed  
\$87,000,000  
DATE: Tuesday, October 29, 2019

---

Resolution authorizing the issuance and delivery of multifamily housing revenue bonds in an aggregate principal amount not to exceed \$87,000,000 for the purpose of providing financing for the acquisition and construction of a 258-unit, affordable multifamily residential rental housing project located at 1064-1068 Mission Street within the City; approving the form of and authorizing the execution of a trust indenture providing terms and conditions of the bonds; approving the form of and authorizing the execution of a regulatory agreement and declaration of restrictive covenants; approving the form of and authorizing the execution of a loan agreement; authorizing the collection of certain fees; ratifying and approving any action heretofore taken in connection with the bonds and the project; granting general authority to City officials to take actions necessary to implement this resolution; and related matters.

Should you have any questions, please contact Sophia Kittler at 415-554-6153.



**San Francisco Ethics Commission**

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102  
 Phone: 415.252.3100 . Fax: 415.252.3112  
[ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org) . [www.sfethics.org](http://www.sfethics.org)

Received On:

File #:  
191113

Bid/RFP #:

**Notification of Contract Approval**

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION	
TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD	
OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT	
NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT	
NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Anne Romero	415-701-5525
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MOH Mayor's Office of Housing	anne.romero@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR 1064 Mission, L.P.	TELEPHONE NUMBER 415 355-7111
STREET ADDRESS (including City, State and Zip Code) Mercy Hsg; 1256 Market Street San Francisco CA 94102	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S) 10/28/2019	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 191113
DESCRIPTION OF AMOUNT OF CONTRACT Bond Issuance in amount up to \$87,000,000		
NATURE OF THE CONTRACT (Please describe) Authorizing the issuance and delivery of multifamily housing revenue bonds in an aggregate principal amount not to exceed \$87,000,000 for the purpose of providing financing for the acquisition and construction of a 258-unit, affordable multifamily residential rental housing project located at 1064-1068 Mission Street; approving the form of and authorizing the execution of a trust indenture providing terms and conditions of the bonds; approving the form of and authorizing the execution of a regulatory agreement and declaration of restrictive covenants; approving the form of and authorizing the execution of a loan agreement; authorizing the collection of certain fees; ratifying and approving any action heretofore taken in connection with the bonds and the project; granting general authority to City officials to take actions necessary to implement this resolution; and related matters.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

C-AFFILIATES AND SUBCONTRACTORS			
List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.			
#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Stokes	Mary Elizabeth	CEO
2	Callandrillo	Chris	COO
3	Lara	Eric	CFO
4	Bayley	Amy	Other Principal Officer
5	Gualco	Barbara	Board of Directors
6	Saab	Bruce	Board of Directors
7	Shoemaker	Doug	Other Principal Officer
8	Holder	Ed	Other Principal Officer
9	Graf	Jane	Other Principal Officer
10	Dolin	Jennifer	Other Principal Officer
11	Rosenblum	Joe	Other Principal Officer
12	Clayton	Melissa	Other Principal Officer
13	Dare	Ramie	Other Principal Officer
14	Ciraulo	Rich	Other Principal Officer
15	Daves	Stephan	Other Principal Officer
16	Spears	Steve	Other Principal Officer
17	Agostino	Val	Other Principal Officer
18	Dodds	Vince	Other Principal Officer
19	Springwater	Richard	Board of Directors

**AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Cooke	David	Other Principal Officer
21	Hagan	Scott	Other Principal Officer
22	Clayter	Todd	Board of Directors
23	Franklin	Michael	Board of Directors
24	Knapp	Frederic	Board of Directors
25	Solomon	Barbara	Board of Directors
26			
27			
28			
29			
30			
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37			
38			

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

**10. VERIFICATION**

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK	DATE SIGNED
BOS Clerk of the Board	



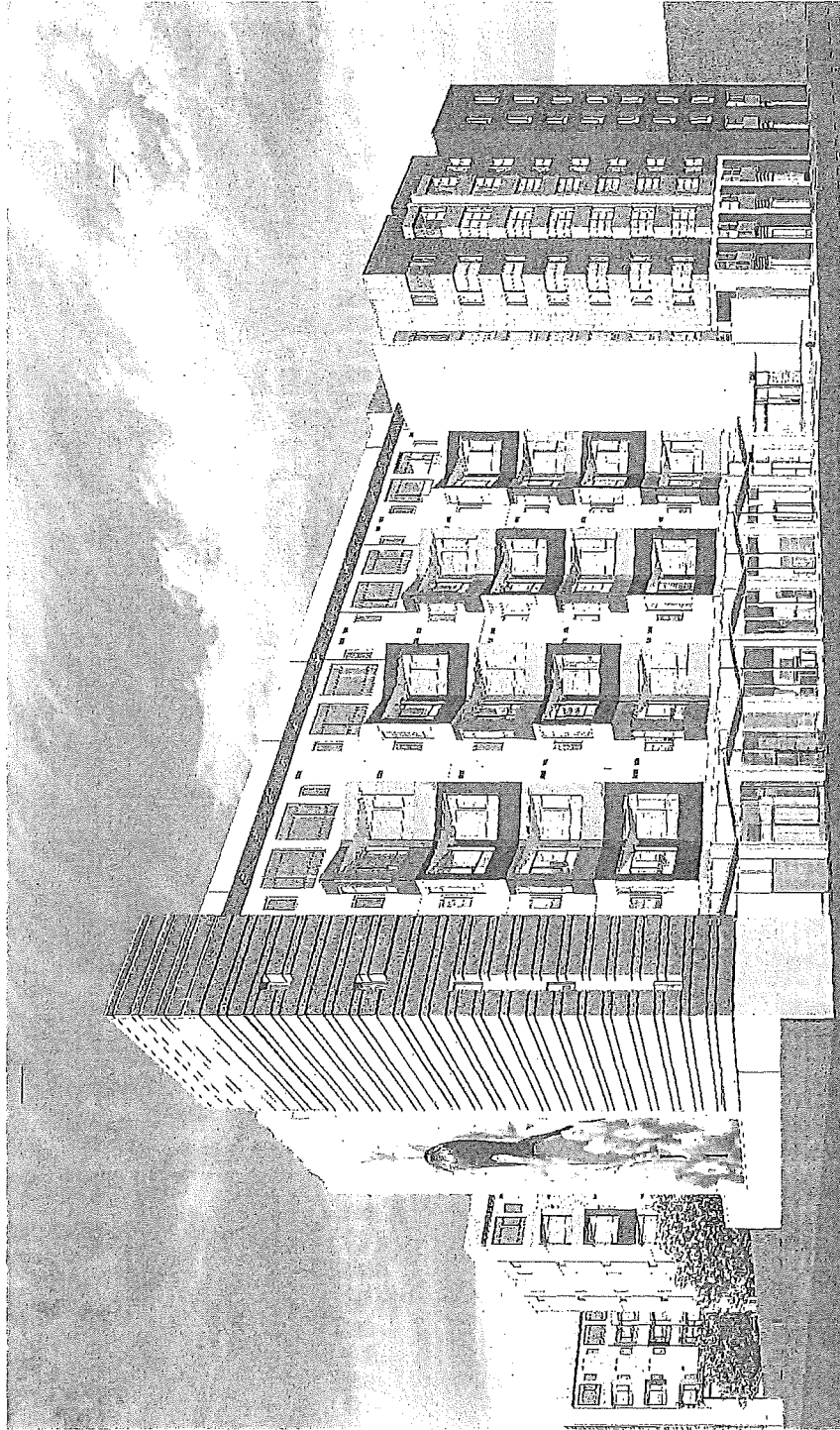


**1064-68 Mission Permanent Supportive Housing  
and  
Homeless Services Center**

**Budget and Finance Committee  
November 13, 2019**

The Mayor's Office of Housing and Community Development  
San Francisco Department of Public Health  
Department of Homelessness and Supportive Housing

1064-68 Mission Supportive Housing & Homeless Services Center



MISSION VIEW





# 1064-68 Mission Street Resolutions

- **Supportive Housing Ground Lease and MOHCD Loan**
- **Issuance of Multifamily Housing Revenue Bonds**
- **Grant Agreement to fund the Homeless Services Center**
- **Certificates of Participation to fund a portion of the Homeless Services Center – Authorizing Resolution**
- **Certificates of Participation approval – Appropriation Ordinance**

4415



# 1064-68 Mission Supportive Housing

- MOHCD applied to USGSA to develop approximately 250 units of permanent supportive housing - conditionally awarded site valued at \$36 million for \$1
- Completion deadline – **November 2021**
- Modular construction for the residential portion of the project - meet the schedule and reduce costs

4416



# 1064-68 Mission – Location of Site

The 1.2 acre site is currently a parking lot adjacent to the Robert R. Browning U.S. Court of Appeals for the Ninth Circuit



4417

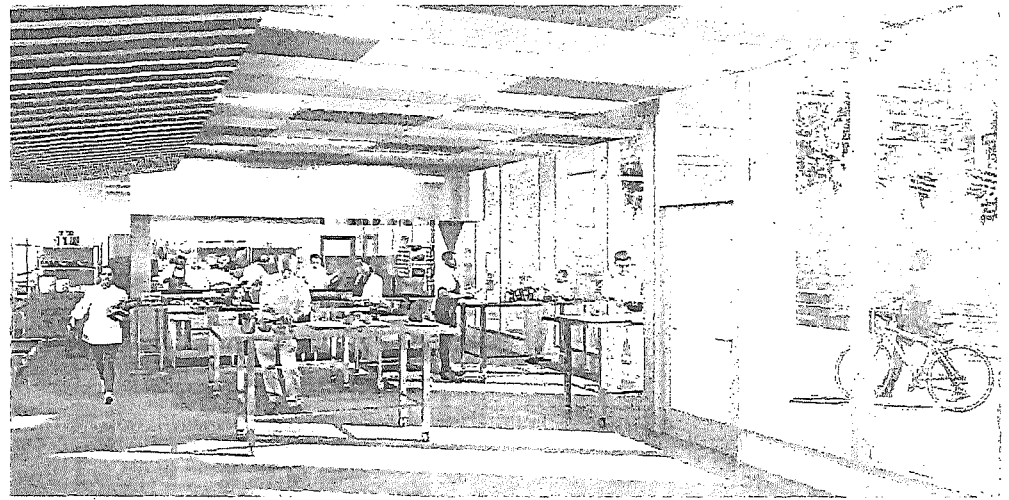




# 1064-68 Mission Supportive Housing

- Five floors of modular construction over a concrete podium surrounding two courtyards, with a public open space accessible from Mission St.
  - 153 units plus one resident manager unit for adults
  - 103 units plus one resident manager unit for seniors over age 55
- ECS will own, operate and provide support services
- ECS will expand CHEFS, their culinary job training program for people experiencing homelessness

4418



# Homeless Services Center

- DPH needs a new location for the **Tom Waddell Urgent Care Clinic** at 101 Grove due to seismic conditions
- Unique opportunity for DPH and HSH to develop a co-location strategy for a new 20,000 s.f. **Homeless Services Center** on the first two floors facing Stevenson Street
- Mercy Housing affiliate is the turnkey developer
- Owned by the City; financed and operated by DPH and HSH

4419



# Homeless Services Center

Relocation of existing DPH and HSH programs:

- Tom Waddell Urgent Care Clinic
- Street Medicine
- Dental Services
- SF Homeless Outreach Team (SF HOT)



STEVENSON VIEW

4420

MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT





# Residential Financing

- ❖ Resolution requests approval of \$74.4 million MOHCD Loan for minimum term of 57 years to finance the construction of the residential project and
- ❖ Approval of a ground lease between City and limited partnership owner for 75 years with 24 year extension option with annual base rent of \$1

## Total Development Cost of \$143.6 million:

- MOHCD Loan of \$74.4 million
  - \$43.6 million in local Sources
  - \$27.7 million in State *No Place Like Home (NPLH)* funds to fund half of the units for people with serious mental illness
- \$51 million Low Income Housing Tax Credit equity
- \$12.9 General Partner equity
- \$2.6 million ECS equity (fundraising for CHEFS)
- \$1.5 AHP / Federal Home Loan Bank



## Multifamily Housing Revenue Bond Financing – \$87 million

- ❖ Resolution requests authorization to issue multifamily housing revenue bonds in an amount not to exceed \$87 million to provide construction financing for the residential project
  - A TEFRA Hearing was held on June 3, 2019
  - The CDLAC Bond Allocation was approved on October 16, 2019
  - This financing is conduit financing and does not require the City to pledge repayment of the bonds

4422



# Homeless Services Center

- ❖ Resolution requests approval of an Amended and Restated Grant to provide \$13,450,689 to finance the construction of the City-owned and operated Homeless Services Center

Total Development Cost of \$16.1 million, of which \$13.4 million is provided through the MOHCD Grant Agreement

## Grant Agreement Sources:

GO Bonds (Public Health and Safety, 2016) Series 2018E1 – <i>Approved</i>	\$5,000,000
General Fund sources - <i>Approved</i>	\$3,450,689
<u>COPs - <i>Proposed for Approval</i></u>	<u>\$5,000,000</u>
<b>Total</b>	<b>\$13,450,689</b>

## Additionally:

- \$1.6 million from General Fund (*Approved*) by DPH
- \$1.1 million Tax Credit equity



# Timeline

## Construction start in early 2020 to meet Federal deadline

- BOS Approvals Request – November 2019
- Finalize Construction Contract – November 2019
- Site Transfer – December 2019
- Close Bond & Construction Financing – January 2020
- Start Construction – January 2020
- Complete Construction – August 2021
- Operational – November 2021

4424





# Homeless Services Center - COPs

- ❖ File No. 191019: Resolution requesting authorization of Certificates of Participation
- ❖ File No. 191012: Ordinance appropriating proceeds of Certificates of Participation

## Estimated Sources:

Not-To-Exceed Par Amount	\$7,250,000
--------------------------	-------------

## Estimated Uses:

Homeless Services Center	\$5,000,000
--------------------------	-------------

CSA Audit Fee (0.2% of project fund)	\$10,000
--------------------------------------	----------

<b>Total Project Fund Deposits:</b>	<b>\$5,010,000</b>
-------------------------------------	--------------------

Capitalized Interest Fund/CP Interest	\$904,800
---------------------------------------	-----------

Costs of Issuance & Underwriter's Discount	\$452,250
--	-----------

Debt Service Reserve Fund	\$637,950
---------------------------	-----------

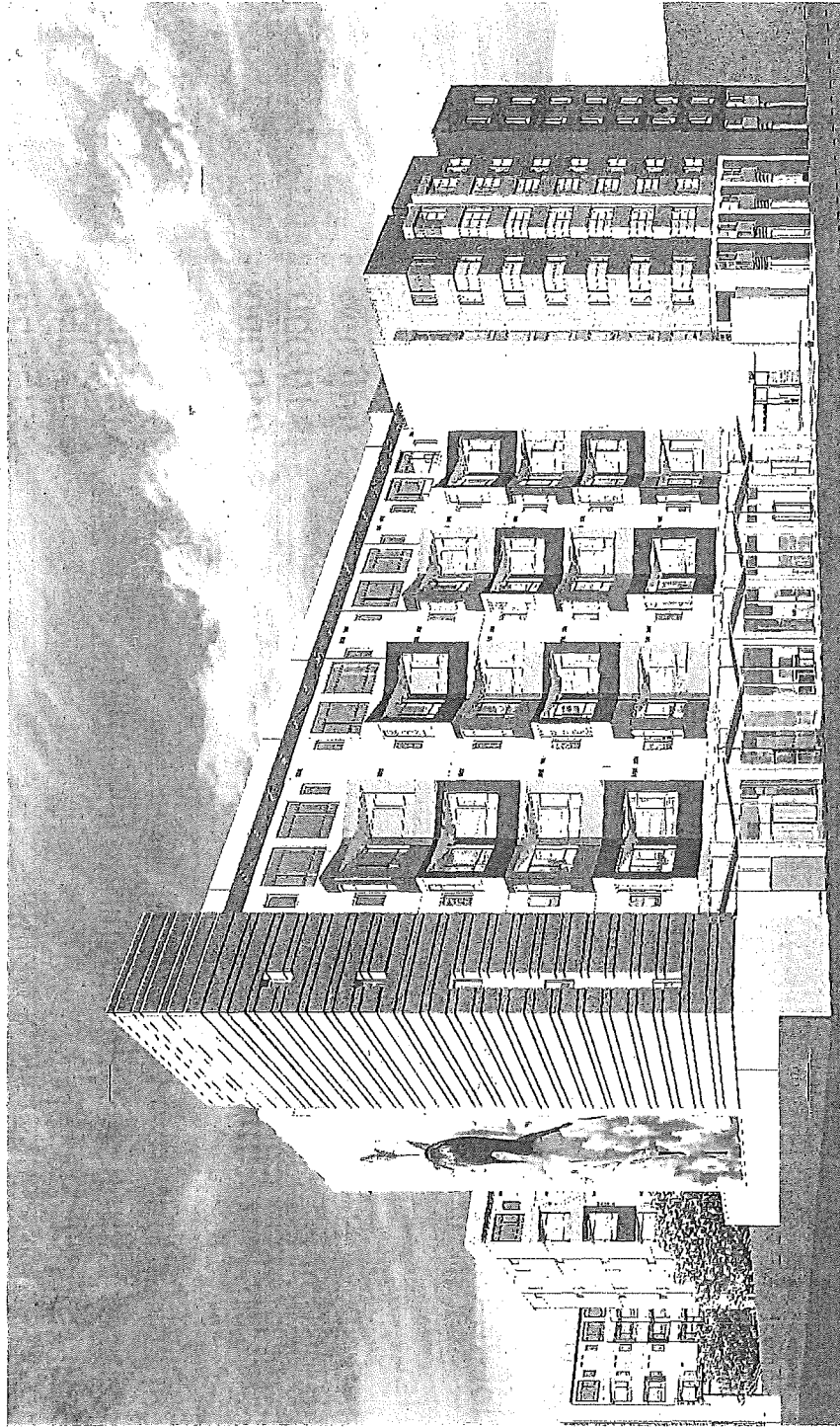
Reserve for Market Uncertainty	\$245,000
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<b>Total</b>	<b>\$7,250,000</b>
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4425



1064-68 Mission Supportive Housing & Homeless Services Center



MISSION VIEW

