

**COUNTY OF CONTRA COSTA, CALIFORNIA,  
as Issuer**

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

**And**

**ECP PARCEL A SOUTH HOUSING PARTNERS, L.P.,  
a California limited partnership  
as Borrower**

**LOAN AGREEMENT**

**Dated as of November 1, 2025**

**Relating to**

**[\$35,700,000]  
County of Contra Costa, California  
Multifamily Housing Revenue Bonds  
(El Cerrito Plaza – Parcel A South),  
2025 Series A**

**\$\_\_\_\_\_**  
**County of Contra Costa, California  
Multifamily Housing Revenue Bonds  
(El Cerrito Plaza – Parcel A South),  
2025 Series B (Federally Taxable)**

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The interest of the County of Contra Costa, California (the “Issuer”) in this Loan Agreement has been assigned (except for certain “Reserved Rights” as defined in this Loan Agreement) pursuant to the Trust Indenture dated as of the date hereof from the Issuer to U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), and is subject to the security interest of the Trustee thereunder.

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## **LOAN AGREEMENT**

This LOAN AGREEMENT dated as of November 1, 2025 (together with all supplements, modifications and amendments thereto, this “Loan Agreement”), among COUNTY OF CONTRA COSTA, CALIFORNIA, a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (together with its successors and assigns, the “Issuer”), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee under the herein defined Indenture (together with any successor trustee hereunder and their respective successors and assigns, the “Trustee”), and ECP PARCEL A SOUTH HOUSING PARTNERS, L.P., a California limited partnership (together with its successors and assigns, the “Borrower”).

### **W I T N E S S E T H :**

WHEREAS, pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (collectively, the “Act”), the Issuer is authorized to issue one or more series of its revenue bonds and to loan the proceeds thereof to finance the acquisition, construction and equipping of residential rental housing facilities to provide housing for persons of low and very low income; and

WHEREAS, by proceedings adopted pursuant to and in accordance with the provisions of the Act, the Issuer has authorized the issuance of its Multifamily Housing Revenue Bonds (El Cerrito Plaza – Parcel A South), 2025 Series A in the maximum aggregate principal amount of \$[35,700,000] (the “Tax-Exempt Bonds”) and its Multifamily Housing Revenue Bonds (El Cerrito Plaza – Parcel A South), 2025 Series B (Federally Taxable), in the aggregate principal amount of \$\_\_\_\_\_ (the “Taxable Bonds”; and, together with the Tax-Exempt Bonds, the “Bonds”) to finance a portion of the costs of the acquisition, construction and equipping of a 70-unit residential rental development to be known as El Cerrito Plaza – Parcel A South (the “Project”); and

WHEREAS, pursuant to this Loan Agreement, the Issuer has agreed to issue the Bonds and to use proceeds of the Bonds to fund a loan to the Borrower (the “Loan”), and the Borrower has agreed to (i) apply the proceeds of the Loan to pay a portion of the costs of acquisition, construction and equipping of the Project, (ii) make payments sufficient to pay the principal of, premium, if any, and interest on the Bonds when due (whether at maturity, by redemption, acceleration or otherwise), and (iii) observe the other covenants and agreements and make the other payments set forth herein; and

WHEREAS, the Borrower has delivered to the Trustee, on behalf of the Issuer, two promissory notes dated the date of issuance of the Bonds in aggregate original principal amounts equal to the aggregate original principal amounts of the Tax-Exempt Bonds and the Taxable Bonds, respectively, in substantially the form set forth on Exhibit B hereto (as the same may be amended, modified or supplemented from time to time, collectively, the “Note”) evidencing its obligation to repay the Loan; and

WHEREAS, to secure its obligations under the Loan Agreement and the Notes, the Borrower has executed a Construction and Permanent Leasehold Deed of Trust, Security Agreement, Assignment of Lease and Rents and Fixture Filing (as amended, modified or supplemented from time to time, the “Mortgage”), in favor of the Issuer, and (ii) an Assignment of Construction and Design

Agreements (as amended, modified or supplemented from time to time, the “Assignment of Project Documents”) and (iii) an Collateral Assignment of Rights to Tax Credits and Partnership Interests (as amended, modified or supplemented from time to time, the “Security Agreement”), and certain other documents evidencing and securing the Loan, each dated as of even date with this Indenture.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.1 Definitions.** The following capitalized terms shall have the meanings specified in this Article unless the context requires otherwise. All other capitalized terms used herein which are not defined herein shall have the respective meanings ascribed thereto in the Indenture unless otherwise expressly provided or unless the context otherwise requires. The singular shall include the plural and the masculine shall include the feminine and neuter shall include the masculine or feminine.

“Accountant” means such independent certified public accountant or firm of independent certified public accountants, selected by the Borrower.

“Appraisal” means an appraisal of the market value of the Project performed by a qualified independent appraiser approved by the Servicer.

“Bank” means JPMorgan Chase Bank, N.A., and its successors and assigns.

“Capital Expenditures” means capital expenditures determined in accordance with generally accepted accounting principles relating to the repair, renovation or replacement of the Project.

“Co-General Partner” means \_\_\_\_\_, a \_\_\_\_\_, together with any permitted successors and assigns as co-general partner of Borrower.

[“Completion Date” means [\_\_\_\_\_, 2028], as the same may be extended in accordance with the Construction Disbursement Agreement.]

“Construction Contract” means the contract to be executed within sixty (60) days of the Closing Date between the Borrower and its general contractor, providing for the construction and equipping of the Improvements and certification of Requisitions, among other things.

“Construction Disbursement Agreement” means the Construction and Permanent Loan Agreement of even date with this Loan Agreement, as amended, modified or supplemented from time to time, between the Borrower and the Bank.

“Control,” “Controlled” and “Controlling” means, with respect to any Person, either (i) ownership directly or indirectly of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the

management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“Default” or “Event of Default” means, when referring to: (i) the Indenture, an event or condition specified or defined as such by Article VI of the Indenture; and (ii) this Loan Agreement, an event or condition specified or defined as such by Section 7.1 hereof.

“Financing Statements” means Uniform Commercial Code Form 1 Financing Statement(s) from the Borrower and the Managing General Partner, and Co-General Partner for the benefit of the Trustee.

“General Partner Documents” means the Partnership Agreement.

“Generally Accepted Accounting Principles” means the principles that are (i) consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors, as in effect from time to time, and (ii) consistently applied with past financial statements of the Borrower adopting the same principles; provided, that a certified public accountant would, insofar as the use of such accounting principles is pertinent, be in a position to deliver an unqualified opinion (other than a qualification regarding changes in Generally Accepted Accounting Principles) as to financial statements in which such principles have been properly applied.

“Governmental Authority” means the United States, the State in which the Land is located and any political subdivision, agency, department, commission, board, bureau, authority or instrumentality of either of them, including any local authorities, or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of government, which has jurisdiction over the Land or the construction, equipping and operation of the Project thereon.

“Guarantor” means The Related Companies, L.P., a New York limited partnership.

“Guarantor Documents” means the Guaranty and the Environmental Indemnity.

“Hazardous Substances” has the meaning set forth for that term in the Environmental Indemnity.

“Improvements” means the 70-unit multifamily rental housing project with related site improvements and amenities to be located on the Land.

“Indebtedness” means all obligations, contingent and otherwise, that in accordance with Generally Accepted Accounting Principles should be classified upon the Obligor’s balance sheet as liabilities, or to which reference should be made by footnotes thereto, including in any event and whether or not so classified: (a) all debt and similar monetary obligations, whether direct or indirect; (b) all liabilities secured by any deed to secure debt, mortgage, deed of trust, pledge, security interest, lien, charge or other encumbrance existing on property owned or acquired subject thereto, whether or not the liability secured thereby shall have been assumed; (c) all liabilities under capitalized leases; and (d) all guaranties, endorsements and other contingent obligations whether direct or indirect in respect of indebtedness of others, including the obligations to reimburse the issuer of any letter of credit for amounts drawn on such letter of credit.

“Initial Notification of Taxability” means the receipt by the Trustee or the Owner of a communication from the Internal Revenue Service or any court of competent jurisdiction to the effect

that interest on the Bonds is not excluded, or will not in the future be excluded, from the gross income of the owners of the Bonds for federal income tax purposes.

“Investor Limited Partner” means [FRE Enterprise Affordable Housing Fund I, LLLP], a [\_\_\_\_\_] limited liability limited partnership], or its affiliate(s), that has been admitted as a limited partner in accordance with the Partnership Agreement, together with its successors and assigns.

“Issuer Annual Fee” means the annual fee of the Issuer due and payable pursuant to Section 20 of the Regulatory Agreement.

“Issuer Issuance Fee” means an issuance fee in an amount equal to 0.25% of the original maximum aggregate principal amount of the Bonds (\$\_\_\_\_\_) payable on or before the Closing Date pursuant to Section 20 of the Regulatory Agreement.

“Land” means the real property described in Exhibit A attached hereto.

“Lien” means any interest in the Project or any part thereof or any right therein, including without limitation any rents, issues, profits, proceeds and revenues therefrom, securing an obligation owed to, or a claim by, any Person, whether such interest is based on the common law, statute or contract, and including but not limited to the lien and security interest arising from a deed to secure debt, mortgage, deed of trust, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall also include any and all reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project or any part thereof or any interest therein.

“Loan Fees” means loan fees payable by the Borrower to the Bank in accordance with the Borrower’s agreement with the Bank.

“Managing General Partner” means El Cerrito Plaza MGP, LLC, a California limited liability company, together with any permitted successors and assigns as managing general partner of Borrower.

“Obligor(s)” means the Borrower, the Co-General Partner, the Managing General Partner and the Guarantor.

“Organizational Documents” means for any corporation, partnership, trust, limited liability company, limited liability partnership, unincorporated association, business or other legal entity, the documents pursuant to which such entity has been established or organized, as such documents may be amended from time to time in accordance with the terms of this Loan Agreement.

“Partnership Agreement” means the [Amended and Restated Agreement of Limited Partnership], dated as of the Closing Date, by and among \_\_\_\_\_, a California limited liability company, as Administrative General Partner; \_\_\_\_\_, a California limited liability company, as Managing General Partner; \_\_\_\_\_, a \_\_\_\_\_, as Investor Limited Partner; \_\_\_\_\_, a \_\_\_\_\_, as Special Limited Partner; and [The Nicholas Company, Inc., a Delaware corporation], as the Withdrawing Limited Partner, as such agreement may be supplemented or amended.

“Partnership Documents” means, collectively, the Partnership Agreement and any other documents that govern the formation, organization, management and funding of Borrower’s partnership.

“Permitted Encumbrances” shall have the meaning ascribed to such term in the Construction Disbursement Agreement.

“Personal Property” means all materials, furnishings, fixtures, furniture, machinery, equipment and all items of tangible or intangible personal property now or hereafter owned or acquired by the Borrower in which the Issuer has been or will be granted an interest to secure the obligations of the Borrower under the Loan Documents.

“Plans and Specifications” means the plans and specifications for the Project approved by the County as the same may be amended, modified or supplemented with the approval of the County.

“Project Revenues” means, for any period, the revenues actually collected during such period (a) generated from all tenants and others occupying or having a right to occupy or use the Project or any portion thereof (including revenue from Section 8 vouchers and other operating subsidies), adjusted to reflect rental concessions over the term of any applicable lease, and (b) from the use and occupancy of any amenities and services of the Project, including vending machine income, net cable TV revenues, laundry service and parking income, but exclusive of (i) capital contributions, (ii) net proceeds from the sale or refinancing of the Project, (iii) net proceeds of insurance (other than proceeds of loss of rent insurance to the extent paid for apartment units occupied at the time of the loss), and net condemnation awards, (iv) security deposits and prepaid rents to the extent not permitted to be released to the Borrower pursuant to the terms of leases, and (v) interest earnings.

“Related Person” means a “related person” as defined in Section 147(a) of the Code.

“Replacement Reserve” shall have the meaning ascribed to that term in the Replacement Reserve Agreement.

“Replacement Reserve Agreement” means that certain Replacement Reserve Agreement, dated as of \_\_\_\_\_, by and between the Borrower and the Bank.

“Reserved Rights” means, the rights of the Issuer hereunder pursuant to Sections 2.3(a), 2.3(b), 2.3(c), 2.3(d), 2.3(f), 2.3(g), 3.2(c), 3.2(d), 3.2(f), 5.5, 5.6, 5.7, 6.3(a)(ii), 7.4, 7.8, 8.1, 8.12, 8.13, 8.14, and 8.15 hereof, and the right to demand specific performance under the Regulatory Agreement, which are retained and not assigned to the Trustee pursuant to the Indenture.

“Retainage” shall have the meaning ascribed to such term in the Construction Disbursement Agreement.

“Secured Property” shall have the meaning ascribed to such term in the Mortgage.

“Single Purpose Entity” means an entity that: (i) is formed solely for the purpose of owning and operating a single asset; (ii) does not engage in any business unrelated to such asset; (iii) keeps its own books and records and its own accounts, separate and apart from the books, records and accounts of any other Person; and (iv) holds itself out as being a legal entity, separate and apart from any other Person.

“Special Limited Partner” means \_\_\_\_\_, a \_\_\_\_\_ corporation, together with its permitted successors and assigns.

“Survey” means an instrument survey of the Land and the Improvements prepared in accordance with the Servicer’s survey requirements, such survey to be reasonably satisfactory to the Servicer in form and substance.

“Tax Credits” means the federal low income housing credits available with respect to the Project.

“Tax and Insurance Fund” has the meaning ascribed to such term in the Indenture.

“Title Insurance Company” means Old Republic National Title Insurance Company.

“Title Policy” means an ALTA standard form title insurance policy issued by the Title Insurance Company for the benefit of the Trustee and, its successors and assigns, as their interests may appear (with such reinsurance or co-insurance as the Servicer may require, any such reinsurance to be with direct access endorsements) insuring the priority of the Mortgage and that the Borrower holds a marketable leasehold interest in the Land and fee interest in the Improvements, subject only to Permitted Encumbrances and such exceptions as the Servicer may approve, and containing such endorsements and affirmative insurance as the Servicer in its discretion may require.

**Section 1.2 Construction.** In this Loan Agreement, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Loan Agreement.

(b) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms refer to this Indenture, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of adoption of this Loan Agreement.

(c) Words of the masculine gender shall mean and include correlative words of the female gender or the neuter, and words importing the singular number shall mean and include the plural number and vice versa.

(d) References in this Indenture to particular sections of the Code, the Act or any other legislation shall be deemed to refer also to any successor sections thereto or other redesignation for codification purposes.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS

**Section 2.1 Representations by the Issuer.** The Issuer makes the following representations as of the date of the execution and delivery of this Loan Agreement as the basis for the undertakings on its part herein contained:

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

(b) The Issuer has power and lawful authority to adopt the Resolution, to execute and deliver the Issuer Documents, to issue the Bonds and receive the proceeds of the Bonds, to apply or cause to be applied the proceeds of the Bonds to make the Loan, to assign the revenues derived and to be derived by the Issuer from the Loan to the Trustee, and to perform and observe the provisions of the Issuer Documents and the Bonds on its part to be performed and observed.

(c) The Issuer has duly authorized the execution and delivery of the Issuer Documents and the issuance, execution, sale and delivery of the Bonds, and the performance of the obligations of the Issuer thereunder.

(d) To the best knowledge of the Issuer, there is no litigation pending or, to the knowledge of the Issuer, threatened, in any court, either state or federal, calling into question (i) the creation, organization or existence of the Issuer, (ii) the validity of the Issuer Documents or the Bonds, (iii) the authority of the Issuer to adopt, make or perform, as the case may be, the Issuer Documents or to issue, execute and deliver the Bonds or (iv) the exclusion from gross income of interest on the Bonds for purposes of federal income taxation.

(e) All actions on the part of the Issuer necessary for the execution and delivery of the Issuer Documents, the issuance, execution, sale and delivery of the Bonds and the performance by the Issuer of its obligations thereunder have been duly and effectively taken. To the best knowledge of the Issuer, no consent, authorization or approval of, or filing or registration with, any governmental or regulatory body is required on the part of the Issuer for the execution and delivery of the Issuer Documents, the issuance, execution, sale and delivery of the Bonds, or the performance by the Issuer of its obligations under the Issuer Documents or the Bonds, except the aforesaid action on the part of the Issuer which has been duly and effectively taken.

(f) The Issuer makes no representation or warranty, express or implied, that the proceeds of the Bonds will be sufficient to finance the acquisition, construction and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

(g) The Issuer has used no broker in connection with the execution hereof and the transactions contemplated hereby.

**Section 2.2 Representations by the Borrower.** The Borrower makes the following representations and warranties, and covenants and agrees as follows, as of and from the date of the execution and delivery of this Loan Agreement as the basis for the undertakings on its part herein contained:

(a) The Borrower is, and at all times will be, a limited partnership in good standing under the laws of the State, has full legal right, power and authority to lease the Land, develop the Improvements, operate the Project, enter into this Loan Agreement and the Loan Documents and to carry out and consummate all transactions contemplated hereby and by the Loan Documents, and by proper corporate action has duly authorized the execution, delivery and performance of this Loan Agreement and the Loan Documents. The Managing General Partner is, and at all time will be, a limited liability company, duly organized, validly existing and in good standing under the laws of the State. The officers of the Borrower executing this Loan Agreement and the Loan Documents are duly and properly in office and fully authorized to execute the same. This Loan Agreement and the Loan Documents have been duly authorized, executed and delivered by the Borrower.

(b) The execution and delivery of this Loan Agreement and the Loan Documents, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

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

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

(e) The Borrower is, and will at all times be, a Single Purpose Entity. The address of the Borrower's chief executive office and principal place of business is [44 Montgomery Street, Suite 1310, San Francisco, CA 94104, Attention: \_\_\_\_\_]. The organizational identification number for the Borrower is \_\_\_\_\_. The federal employer identification number for the Borrower is 92-3961784.

(f) On the Closing Date, the Borrower will hold a leasehold interest in the Land and fee interest in the current and to be built Improvements, in each case subject only to the Permitted Encumbrances. The Borrower possesses, and will at all times possess, all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business substantially as now conducted or as it is intended to be conducted with respect to the Project, without any known conflict with any rights of others parties.

(g) The Borrower is not subject to any charter, partnership or other legal restriction, or any judgment, decree, order, rule or regulation that has or is expected in the future to have a materially adverse effect on the business assets or financial condition of the Borrower. The Borrower is not, and will not be, a party to any contract or agreement that has or is expected, in the

judgment of the Borrower's general partners, to have any materially adverse effect on the business or financial condition of the Borrower.

(h) The Borrower is not and will not at any time be, in violation of any provision of its Organizational Documents or any agreement or instrument to which it may be subject or by which it or any of its properties may be bound or any decree, order, judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that could result in the imposition of substantial penalties or adversely affect the financial condition, properties or business of the Borrower.

(i) The Borrower and each Obligor (i) has made or filed, and will make or file in a timely fashion, all federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid, and will pay before delinquency, all taxes and other governmental assessments and charges shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and by appropriate proceedings, (iii) if a partnership, limited liability partnership or limited liability company, has, and will maintain, partnership tax classification under the Code, and (iv) has set aside, and will at all times set aside, on its books provisions reasonably adequate for the payment of all taxes for periods subsequent to the period to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the partners, officers, members or trustees of the Borrower know of no basis for any such claim. The Borrower has filed, and will continue to file, all of such tax returns, reports, and declarations either (x) separately from any Affiliate or (y) if part of a consolidated filing, as a separate member of any such consolidated group.

(j) The Project is located wholly within the County of Contra Costa, California and within the jurisdiction of the Issuer.

(k) There is no Event of Default on the part of the Borrower or, to the best of Borrower's knowledge, any Obligor under this Loan Agreement or any other Loan Document, any General Partner Document, any Guarantor Document or any Organizational Document, and no event has occurred and is continuing which after notice or passage of time or both would give rise to a default under any thereof. The Borrower has received no notices of and has no knowledge of any violations of any Legal Requirements or conditions of approval or other requirements relating to the development or operation of the Project issued by any Governmental Authority.

(l) The certifications, representations, warranties, statements, information and descriptions contained in the Loan Documents and in the Borrower's Tax Certificate, as of the date of the first authentication and delivery of the Bonds, are and will be true, correct and complete, do not and will not contain any untrue statement or misleading statement of a material fact, and do not and will not omit to state a material fact required to be stated therein or necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in light of the circumstances under which they were made, not misleading. The estimates and the assumptions contained in the Loan Documents and in the Borrower's Tax Certificate, as of the date of the first authentication and delivery of the Bonds, are reasonable and based on the best information available to the Borrower. Each of the certifications, representations, warranties, statements, information and descriptions contained in the Borrower's Tax Certificate is hereby incorporated into this Loan Agreement by reference, as if fully set forth herein.

(m) The Borrower has furnished to the Issuer, in the Tax Certificate, all information necessary for the Issuer to file an IRS Form 8038 with respect to the Bonds, and all of such information is and will be on the date of filing, true, complete and correct.

(n) The Borrower is not contemplating either the filing of a petition by it, by the Managing General Partner, or by the Co-General Partner under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property, and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it or any Obligor.

(o) The Borrower is not an “employee benefit plan,” as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute “plan assets” of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101.

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

(q) The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (iii) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

(r) The Borrower has not entered into the Loan or any Loan Document with the actual intent to hinder, delay, or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and delivery of the Loan Documents, will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

(s) No written information, exhibit or report furnished to the Issuer by the Borrower in connection with the negotiation of this Loan Agreement or the Loan Documents contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(t) There is no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other Governmental Authority, pending, or to the knowledge of the Borrower, threatened, against or affecting the Borrower or the assets, properties or operations of the Borrower which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, this Loan Agreement or the Loan Documents, or upon the financial condition, assets, properties or operations of the Borrower, and the Borrower is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the Loan Documents, or the financial condition, assets, properties or operations of the Borrower. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

(u) All utility services necessary and sufficient for the construction, equipping and operation of the Project shall be, upon Completion of the Project, and thereafter will at all times be, available through dedicated public rights of way or through perpetual private easements with respect to the Borrower's interest in which the Mortgage creates a valid and enforceable first priority mortgage lien. The Borrower has obtained, or promptly will obtain, all utility installations and connections required for the operation and servicing of the Project for its intended purposes.

(v) The rights of way for all roads necessary for the full utilization of the Project for its intended purposes as required by applicable government authorities have either been acquired by the appropriate Governmental Authority or have been dedicated to public use and accepted by such Governmental Authority. All such roads shall have been completed, and the right to use all such roads, or suitable substitute rights of way approved by the initial Servicer, shall be maintained at all times for the Project. All curb cuts and driveways shown on the Plans and Specifications are existing or have been fully approved by the appropriate Governmental Authority and after the completion thereof, shall be maintained at all times for the Project.

(w) The acquisition, construction, equipping, use and occupancy of the Project will at times comply with all Legal Requirements. The Borrower will give all notices to, and take all other actions with respect to, such Governmental Authorities as may be required under applicable Legal Requirements to construct and equip the Improvements and to use, occupy and operate the Project.

(x) The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which might materially adversely affect the condition (financial or otherwise) or business of the Borrower. There has not been and shall never be committed by the Borrower any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Loan Document.

(y) The Construction Contract is in full force and effect and each of the parties thereto are in full compliance with their respective obligations thereunder. The work to be performed under the Construction Contract is the work called for by the Plans and Specifications, and all work required to complete the Improvements in accordance with the Plans and Specifications is provided for under the Construction Contract.

(z) Each Requisition submitted by the Borrower shall contain an affirmation that the foregoing representations and warranties remain true and correct as of the date hereof.

**Section 2.3 Covenants by the Borrower.** The Borrower hereby covenants and agrees that, on and after the Closing Date, it will:

(a) Give written notice promptly, and in any event at least thirty (30) days prior to the closing thereof, of any intended refinancing of the Project to the Issuer, the Trustee and the Servicer;

(b) Comply with all Legal Requirements and promptly furnish the Issuer, the Trustee and the Servicer with reports of any official investigations made by any Governmental Authority and any claims of violations thereof;

(c) Upon reasonable notice and at reasonable times, permit the Servicer, the Majority Owner, the Issuer and the Trustee (or their representatives) to enter upon the Land and inspect the Project;

(d) Indemnify the Issuer, the Trustee, the Owners and the Servicer against claims of brokers arising by reason of the execution hereof or the consummation of the transactions contemplated hereby;

(e) Deliver to the Servicer and the Issuer copies of all leases (other than leases to residential tenants or office space tenants in the ordinary course of business in the form set forth in Exhibit D hereto) with respect to the Project or any portion thereof, whether executed before or after the date of this Loan Agreement;

(f) Not enter into, cancel or amend in any material respect any agreement for the furnishing of management or similar services to the Project, without the prior written consent of the Servicer and the Issuer, such consent not to be unreasonably withheld or delayed;

(g) Comply with all restrictions, covenants and easements affecting the Land or the Project;

(h) Take, or require to be taken, such acts as may be required under applicable law or regulation in order that the interest on the Bonds continues to be excludable from gross income for purposes of federal income taxation, and refrain from taking any action which would adversely affect the exclusion from gross income of interest on the Bonds from federal income taxation;

(i) Perform and satisfy all the duties and obligations of the Borrower set forth and specified in the Indenture as duties and obligations of the Borrower, including those duties and obligations which the Indenture requires this Loan Agreement or the other Loan Documents to impose upon the Borrower;

(j) Promptly notify the Issuer, the Trustee and the Servicer in writing of any (i) default by the Borrower in the performance or observance of any covenant, agreement, representation, warranty or obligation of the Borrower set forth in this Loan Agreement or any other Loan Documents or (ii) any event or condition which with the lapse of time or the giving of notice, or both would constitute an Event of Default under this Loan Agreement or any other Loan Documents; and commence, pursue and complete construction and equipping of the Improvements as provided herein and in the Construction Disbursement Agreement;

(k) Pay all third-party fees of the financing, including but not limited to the following:

(i) All taxes and assessments of any type or character charged to the Issuer or to the Trustee affecting the amount available to the Issuer or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer or the Trustee, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer or the Trustee;

(ii) All reasonable fees, charges and expenses of the Trustee and the Servicer for services rendered under the Indenture and/or the Loan Agreement, including, but not limited to, the Trustee Expenses, as and when the same become due and payable;

(iii) The Issuer Issuance Fee and the Issuer Annual Fee, payable to the Issuer as set forth in Section 20 of the Regulatory Agreement, and the reasonable fees and expenses of the Issuer or any agents, attorneys, accountants, consultants selected by the Issuer to act on its behalf in connection with this Loan Agreement, the Regulatory Agreement, the Bonds or the Indenture, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds or in connection with any litigation which may at any time be instituted involving this Loan Agreement, the Regulatory Agreement, other Issuer Documents, the Bonds or the Indenture or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing; and

(iv) These obligations and those in Sections 5.6 and 5.7 shall remain valid and in effect notwithstanding repayment of the Loan hereunder or termination of this Loan Agreement.

The Borrower acknowledges that, to the extent that regulations of the Comptroller of the Currency or any other applicable regulatory agency require granting the Borrower the right to receive brokerage confirmations of securities transactions as they occur, the Borrower specifically waives the right to receive such confirmations.

## ARTICLE III

### LOAN AND PROVISIONS FOR REPAYMENT

#### Section 3.1 Issuance of Bonds and Delivery of Note and other Loan Documents.

(a) In order to finance a portion of the costs of the acquisition, construction and equipping of the Project, the Issuer has, consistent with its duties and purpose under the Act, issued and caused the Trustee to authenticate and deliver the Bonds pursuant to the Indenture to the initial Owner. The Bonds bear interest and are payable as provided therein and in the Indenture. The Bonds shall mature and all Outstanding principal of, interest and Additional Interest (if any) on the Bonds shall be due and payable in full on the Maturity Date, all as provided more fully in the Bonds and the Indenture.

(b) The Issuer agrees to lend the proceeds received from the sale of the Bonds to the Borrower, by causing such amounts to be deposited directly into the Project Fund, subject to the terms and conditions of the Indenture and this Loan Agreement, including the terms and conditions thereof and hereof governing the disbursement of proceeds of the Loan.

(c) Pursuant to the Indenture, the Trustee shall make disbursements from the Project Fund created pursuant to the Indenture to pay or to reimburse the Borrower for costs of the acquisition, construction and equipping of the Project, subject to the conditions of the Indenture and this Loan Agreement. Upon receipt of a properly signed Requisition approved by the Servicer (which approval of the Servicer is expressly subject to the satisfaction of the conditions precedent set forth in the Construction Disbursement Agreement), the Trustee is authorized to act upon such Requisition without further inquiry, and, except for negligence after notice of facts to the contrary or willful misconduct of the Trustee, the Borrower shall hold the Trustee harmless against any and all losses, claims or liabilities incurred in connection with the Trustee's making disbursements from the Project Fund in accordance with such Requisition. Neither the Trustee nor the Issuer shall be responsible for the application by the Borrower of moneys properly disbursed from the Project Fund.

(d) Concurrently with the sale and delivery of the Bonds, and to evidence further the obligation to repay the Loan in accordance with the provisions of this Loan Agreement, the Borrower has executed and delivered the Tax-Exempt Note and the Taxable Note and the other Loan Documents. The Tax-Exempt Note and the Taxable Note shall be in the original aggregate principal amounts of, and shall bear interest at the same rates per annum as, the Tax-Exempt Bonds and the Taxable Bonds, respectively.

#### Section 3.2 Loan Repayments and Other Amounts.

(a) The Borrower shall pay to the Trustee, for deposit into the Revenue Fund, on the first day of each month commencing \_\_\_\_\_ 1, 2025 and continuing until the Conversion Date, an amount equal to the sum of (i) the interest due on the Bonds on said date, plus (ii) amounts required to be deposited into the Tax and Insurance Fund pursuant to [the Construction Disbursement Agreement] [KMO – IS THIS CORRECT?] as of such date. On and after the Conversion Date, the Borrower shall pay to the Trustee, for deposit into the Revenue Fund, principal, interest and other amounts due and payable pursuant to the terms of the Note, at the times required thereby, and shall pay to the Trustee, for delivery by the Trustee to Bank, any amount then required to be deposited into the Replacement Reserve pursuant to the Replacement Reserve Agreement and any amount then

required to be deposited into the Operating Reserve pursuant to [the Construction Disbursement Agreement] [KMO – IS THIS CORRECT?]. Amounts so paid to the Trustee by the Borrower shall be in immediately available funds or shall be such that on the Bond Payment Date they are available funds.

(b) The Borrower understands that the interest rates applicable under the Tax-Exempt Note and with respect to the Tax-Exempt Bonds are based upon the assumption that interest income paid on the Tax-Exempt Bonds will be excludable from the gross income of the Owners under Section 103 of the Code (except to the extent that an Owner is a “substantial user” of the Project within the meaning of Section 147(a) of the Code or a Related Person to such substantial user) and applicable state law. In the event that an Initial Notification of Taxability shall occur, then the interest rates on the Tax-Exempt Note and the Tax-Exempt Bonds, and on all obligations under this Loan Agreement (other than the Taxable Note and those obligations to which the Alternative Rate applies) shall, effective on the date of such Initial Notification of Taxability, be increased to a rate equal to the taxable rate, described in the Notes. The Borrower shall, in addition, pay to the Trustee, for deposit into the Revenue Fund, promptly upon demand from the Trustee or the Servicer, an amount equal to the Additional Interest payable on the Tax-Exempt Bonds. The Borrower shall also indemnify, defend and hold the Owners harmless from any penalties, interest expense or other costs, including reasonable attorneys’ fees (including all reasonably allocated time and charges of Owners’ and Trustee’s “outside” counsel) and accountants’ costs, resulting from any dispute with the Internal Revenue Service concerning the proper tax treatment of the Tax-Exempt Bonds and any interest payable to any Owner with respect to the Tax-Exempt Bonds. The obligations of the Borrower under this Section 3.2(b) shall survive termination of this Loan Agreement and the Tax-Exempt Note and repayment of the Loan. If, following any increase in interest rates pursuant to this Section 3.2(b), a final determination is made, to the satisfaction of the Owners, that interest paid on the Tax-Exempt Bonds is excludable from the Owners’ gross income under Section 103 of the Code except to the extent that an Owner is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code) and applicable state law, the Owners shall promptly refund to the Borrower any Additional Interest and other additional amounts paid by the Borrower pursuant to this Section 3.2(b).

(c) The Borrower agrees to pay the Trustee Fee and Trustee Expenses to the Trustee and agrees to pay the Issuer Issuance Fee and the Issuer Annual Fee to the Issuer. The Borrower also agrees to pay all fees, charges and expenses of the Trustee and the Issuer, respectively (including, without limitation, the reasonable, actually incurred fees and expenses of counsel to the Issuer, Bond Counsel and counsel to the Trustee), as and when the same become due. The Borrower also agrees to pay the printing and engraving costs of the Bonds, including any certificates required to be prepared for use in connection with any exchanges of Bonds for the cost of which Owners are not liable. The Borrower also agrees to pay the Loan Fees to the Bank on or before the Closing Date, to pay the fees of the Majority Owner and the Servicer, and to pay all reasonable costs and expenses incurred by the Majority Owner and the Servicer in connection with the administration of the Bonds, the Loan or the collateral therefor, and any amendments, modifications or “workouts” thereof, including without limitation reasonable attorneys’ fees and costs (including allocated costs of in-house attorneys), fees and costs of engineers, accountants, appraisers and other consultants, title insurance premiums and recording costs upon receipt of written demand therefor.

(d) The Borrower agrees to pay all Costs of Issuance (in addition to those Costs of Issuance otherwise required to be paid by this Section 3.2).

(e) The Borrower agrees to pay any Prepayment Equalization Payments at the times and in the amounts the same become payable pursuant to the Indenture or the Note.

(f) The Borrower agrees to pay, as and when the same become due, to the Issuer, the Servicer or the Trustee any extraordinary expenses, including, without limitation, any costs of litigation, which may be incurred by the Issuer, the Servicer or the Trustee in connection with this Loan Agreement, the Bonds, or the Indenture, including the reasonable, actually incurred costs and fees of any attorneys or other experts retained by the Issuer, the Servicer or the Trustee in connection therewith.

(g) The Borrower agrees to repay the Loan at the times and in the amounts necessary to enable the Trustee, on behalf of the Issuer, to pay all amounts payable with respect to the Bonds, when due, whether at maturity or upon redemption, acceleration, tender, purchase or otherwise.

(h) If Issuer has not received the full amount of any payment scheduled to be made under this Loan Agreement, other than the final principal payment, by the end of ten (10) calendar days after the date it is due, Borrower shall pay a late charge to Issuer in the amount of five percent (5%) of the overdue payment; provided, however, in no event shall any late charge be payable hereunder without Issuer first having provided Borrower with any notice required by applicable law. Borrower shall pay this late charge only once on any late payment. This late charge shall not be construed as in any way extending the due date of any payment, and is in addition to (and not in lieu of) any other remedy Issuer may have.

**Section 3.3 Payments Pledged and Assigned.** It is understood and agreed that the Loan Documents and certain other documents and property and all payments required to be made by the Borrower pursuant hereto (except payments to be made to the Issuer in respect of its Reserved Rights and payments to be made to the Servicer and the Trustee pursuant to Section 3.2(b) hereof) have been assigned to the Trustee simultaneously herewith pursuant to the Indenture as and for security for the Bonds. The Borrower hereby consents to such assignment and recognizes the Trustee as the assignee of the Issuer, to the extent of the assignment, for purposes of said documents and property.

**Section 3.4 Obligations of Borrower Hereunder Unconditional.** The obligations of the Borrower to make any payments required by the terms of this Loan Agreement and the other Loan Documents, including, without limitation, the payments required in Section 3.2 hereof, and to perform and observe the other agreements on its part contained herein and in the other Loan Documents shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of set off, counterclaim, abatement or otherwise and, until such time as the principal of and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture. The Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for herein or in the other Loan Documents, (ii) will perform and observe all of its other agreements contained herein and the other Loan Documents and (iii) will not suspend the performance of its obligations hereunder and under the other Loan Documents for any cause including, without limiting the generality of the foregoing, failure to complete construction and equipping of the Project, any acts or circumstances that may constitute failure of consideration, failure of or a defect of title to the Project or any part thereof, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of

either, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement or the other Loan Documents. The Borrower may, at its own cost and expense and in its own name or in the name of the Issuer (if the Issuer is a necessary party and consents thereto), prosecute or defend any action or proceeding or take any other action involving third persons which the Borrower deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Issuer, subject to the provisions of the Indenture, hereby agrees to cooperate fully with the Borrower and to take all action (at the Borrower's cost and expense) necessary to effect the substitution of the Borrower for the Issuer in any such action or proceeding if the Borrower shall so request.

## **ARTICLE IV**

### **ADVANCES**

**Section 4.1 Requisition.** At such time as the Borrower shall desire to obtain an advance from the Loan Account, the Insurance and Condemnation Proceeds Account, or, the Equity Account of the Project Fund, the Borrower shall complete, execute and deliver a Requisition to the Servicer. Each Requisition shall be signed on behalf of the Borrower and shall be in the form attached as Exhibit C to the Indenture. The Trustee may rely conclusively on the statements and certifications contained in any Requisition. The Borrower shall not submit any Requisition directly to the Trustee. Each advance from the Loan Account, the Insurance and Condemnation Proceeds Account, or the Equity Account of the Project Fund by the Trustee shall be subject to prior approval of the Requisition by the Servicer. Upon approval, the Servicer shall forward each Requisition to the Trustee for payment.

## **ARTICLE V**

### **SPECIAL COVENANTS OF THE BORROWER**

**Section 5.1 Commencement and Completion of Project.** The Borrower will commence construction and equipping of the Improvements within ninety (90) days after the Closing Date, will diligently pursue construction and equipping of the Improvements, will attain Completion prior to the Completion Date, and will pay all sums and perform all such acts as may be necessary or appropriate to complete such construction and equipping, all as more fully set forth in the Construction Disbursement Agreement.

**Section 5.2 Records and Accounts.** The Borrower will (a) keep true and accurate records and books of account in which full, true and correct entries will be made in accordance with Generally Accepted Accounting Principles, which records and books will not be maintained on a consolidated basis with those of any other Person, including any Affiliate of the Borrower and (b) maintain adequate accounts and reserves for all taxes (including income taxes), depreciation and amortization of its properties, contingencies, and other reserves, all of which accounts shall not be commingled with accounts of any other Person, including any Affiliate of the Borrower. Upon reasonable notice and at reasonable times, the Borrower will permit the Servicer, the Majority Owner, the Issuer, and the Trustee (or their representatives) to inspect such records and books of account at a location in Contra Costa County, California.

**Section 5.3 Compliance with Laws, Contracts, Licenses, and Permits.** The Borrower will comply with (a) all Legal Requirements, (b) the provisions of its Organizational Documents,

(c) all applicable decrees, orders and judgments, and (d) all licenses and permits required by applicable laws and regulations for the conduct of its business or the ownership, use or operation of its properties.

**Section 5.4 Use of Proceeds; Excess Project Costs.** The Borrower will use the proceeds of the Bonds solely for the purpose of paying for Qualified Costs of the Project, all in accordance with the Project budget approved by the Issuer. Except as may be provided to the contrary in the Construction Disbursement Agreement, the Borrower will pay when due all costs of acquisition, construction and equipping of the Project in excess of the proceeds of the Bonds, regardless of the amount.

**Section 5.5 Preservation of Tax Exemption.** The Borrower will not take any action that would adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income for purposes of federal income taxation, nor omit or fail to take any action required to maintain the exclusion of interest on the Tax-Exempt Bonds from gross income for purposes of federal income taxation (in each case, except to the extent that an Owner is a “substantial user” of the Project within the meaning of Section 147(a) of the Code or a Related Person to such substantial user).

**Section 5.6 Arbitrage and Tax Matters.** The Borrower further represents, warrants and covenants as follows:

(a) General. The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Bonds from gross income, as defined in Section 61 of the Code, for federal income tax purposes. Capitalized terms used in this Section 5.6 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Indenture. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Bonds, unless it has received and filed with the Issuer and the Trustee an opinion of Bond Counsel to the effect that such action or omission would not adversely affect the excludability of interest on the Bonds from gross income (other than interest on any Tax-Exempt Bond for a period during which such Tax-Exempt Bond is held by a “substantial user” within the meaning of Section 147(a) of the Code of any facility financed with the proceeds of the Bonds or a Related Person to such substantial user), the Borrower will comply with this Section 5.6.

(b) Use of Proceeds. The use of the proceeds of the Bonds at all times will satisfy the following requirements:

(i) Limitation on Proceeds. At least 95% of the proceeds of the Bonds actually expended shall be used to pay Qualified Project Costs that are costs of a “qualified residential rental project” (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Issuance. The proceeds of the Bonds will be expended for the purposes set forth in this Loan Agreement and in the Indenture and no portion thereof in excess of two percent of the proceeds of the Bonds, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Issuance of the Bonds.

(iii) Prohibited Facilities. The Borrower shall not use or permit the use of any proceeds of the Bonds or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) Limitation on Land. Less than 25% of the proceeds of the Bonds actually expended will be used, directly or indirectly, for the acquisition of land or an interest therein. Notwithstanding the immediately preceding sentence no portion of the proceeds of the Bonds will be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) Limitation on Existing Facilities. No portion of the proceeds of the Bonds will be used for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15% of the cost of acquiring such building financed with the proceeds of the Bonds (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15%). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in Section 147(d)(3) of the Code.

(vi) Accuracy of Information. The information furnished by the Borrower and used by the Issuer in preparing the certificate pursuant to Section 148 of the Code and information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of the issuance of the Bonds.

(vii) Limitation of Project Expenditures. The acquisition, construction and equipping of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding January 21, 2025, being the effective date of the reimbursement resolution adopted with respect to the Project, and no obligation for which reimbursement will be sought from proceeds of the Bonds relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date.

(c) Limitation on Maturity. Taking into account the maturity of the Bonds, the average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the Project to be financed by the Bonds, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the proceeds of the Bonds. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Bonds or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) No Arbitrage. The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Bonds (within the meaning of the Code) or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause any Tax-Exempt Bond to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Except as provided in the Indenture and this Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or

encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Agreement or the Note relating to the Bonds, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Bonds, unless the Borrower has obtained in each case an opinion of Bond Counsel, a copy of which shall be provided to the Issuer. The Borrower shall not, at any time prior to the final maturity of the Bonds, direct or permit the Trustee to invest such Gross Proceeds in any investment (or to use such Gross Proceeds to replace money so invested), if, as a result of such investment the yield of all investments acquired with such Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the yield of the Bonds to Maturity Date except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with and will take all action reasonably required to insure that the Trustee complies with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Bonds and the interest thereon, including the employment of a Rebate Analyst for the calculation of rebatable amounts (including any yield reduction payments pursuant to Section 148 of the Code) to the United States Treasury Department (the “Rebate Amount”). The Borrower agrees that it will cause the Rebate Analyst to calculate the Rebatable Amount prior to the Conversion Date, annually not later than forty-five days after the anniversary of the Closing Date and subsequent to the Conversion Date, not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter and not later than forty-five days after the redemption of all outstanding Bonds or the Maturity Date (each referred to herein as a “Computation Date”) and agrees that the Borrower will pay all costs associated therewith.

(e) No Federal Guarantee. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Representations. The Borrower has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Bonds for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Bond Counsel has not requested.

(g) Covenant re Program Investments. The Borrower and related parties to the Borrower may not purchase Bonds in an amount related to the Loan under the Loan Agreement. The term “related party” means any member of the same controlled group as the Borrower. The term “controlled group” means a group of entities directly or indirectly subject to control by the same person or persons, including the person that has the control of the other entities.

(h) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code including:

(i) Delivery of Documents and Money on Computation Dates. The Borrower will deliver to the Trustee, within 55 days after each Computation Date:

(A) a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) (1) if such Computation Date is a Computation Date subsequent to which a Rebate Amount may be owed, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the Computation Date resulting from the Maturity Date or redemption of all outstanding Bonds, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) Correction of Underpayments. If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.6 of an amount described in Section 5.6(h)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Issuer or the Trustee), the Borrower shall (1) pay to the Trustee (for deposit to the Rebate Fund) and cause the Trustee to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Trustee an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations the Borrower shall take such steps as are necessary to prevent the Bonds from becoming arbitrage bonds, within the meaning of Section 148 of the Code.

(iii) Records. The Borrower shall retain all of its accounting records relating to the funds established under the Indenture and all calculations made in preparing the statements described in this Section 5.6 for at least six years after the later of the final maturity of the Bonds or the date the last Tax-Exempt Bond is discharged.

(iv) Costs. The Borrower agrees to pay all of the fees and expenses of a nationally recognized Bond Counsel, the Rebate Analyst, a certified public accountant and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with computing the Rebate Amount.

(v) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment

arrangement with respect to the Gross Proceeds of the Bonds which is not purchased at fair market value or includes terms that the Borrower would not have included if the Bonds were not subject to Section 148(f) of the Code.

(vi) Modification of Requirements. If at any time during the term of this Loan Agreement, the Issuer, the Trustee or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.6, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein an opinion of Bond Counsel.

(i) Qualified Residential Rental Project. The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period or any period during which any Tax-Exempt Bond remains outstanding, to the end that the interest on the Bonds shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(j) Information Reporting Requirements. The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Bonds to be filed with the Internal Revenue Service within prescribed time limits.

(k) [Reserved].

(l) [Reserved].

(m) Bonds are Not Hedge Bonds. The Borrower covenants and agrees that not more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Bonds will be used to carry out the governmental purposes of the Bonds within the three-year period beginning on the Closing Date.

(n) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of Section 12 of the Regulatory Agreement, the provisions of this Loan Agreement shall terminate in accordance with Section 8.11 of this Loan Agreement, the parties hereto recognize that pursuant to the Regulatory Agreement, the requirements incorporated by reference in this Section 5.6 may continue in effect beyond the term hereof.

(o) Public Approval. The Borrower covenants and agrees that the proceeds of the Bonds will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Bonds.

(p) 40/60 Test Election. The Borrower and the Issuer hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(q) **Modification of Tax Covenants.** Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture) of the Bonds, this Section 5.6 may not be amended, changed, modified, altered or terminated except as permitted herein and by the Indenture and with the written consent of the Issuer. Anything contained in this Loan Agreement or the Indenture to the contrary notwithstanding, the Issuer, the Trustee and the Borrower hereby agree to amend this Loan Agreement and, if appropriate, the Indenture and the Regulatory Agreement, to the extent required, in the opinion of Bond Counsel, in order for interest on the Bonds to remain excludable from gross income for federal income tax purposes. The party requesting such amendment shall notify the other parties to this Loan Agreement of the proposed amendment and send a copy of such requested amendment to Bond Counsel. After review of such proposed amendment, Bond Counsel shall render to the Trustee an opinion as to the effect of such proposed amendment upon the includability of interest on the Bonds in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Issuer and, where applicable, the Trustee per written instructions from the Issuer, shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement.

#### **Section 5.7 Indemnification.**

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Issuer, the Servicer, the Trustee, each Owner and each of their respective past, present and future officers, governing members, directors, officials, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(i) The Bonds, Loan Documents and the Indenture or the execution or amendment thereof or in connection with transactions contemplated thereby, including the issuance, sale, transfer or resale of the Bonds, including any securitization thereof;

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

(iii) Any lien (other than a permitted encumbrance) or charge upon payments by the Borrower to the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer or the Trustee in respect of any portion of the Project;

(iv) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

(v) The enforcement of, or any action taken by the Trustee or the Servicer related to remedies under this Loan Agreement, the Indenture and the other Loan Documents relating to the default by the Borrower;

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

(vii) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower contained in any offering statement or document for the Bonds, the Indenture or any of the Loan Documents to which the Borrower is a party, or any omission or alleged omission from any offering statement or document for the bonds of any material fact necessary to be stated therein in order to make the statements made therein by the Borrower, in the light of the circumstances under which they were made, not misleading, including without limitation any offering statement or disclosure document in connection with any securitization or other secondary market transaction with respect to the Bonds;

(viii) Any declaration of taxability of interest on the Bonds or allegations (or regulatory inquiry) that interest on the Bonds, is taxable for federal income tax purposes; or

(ix) The Trustee's acceptance or administration of the trust of the Indenture, or the Trustee's exercise or performance of or failure to exercise or perform any of its powers or duties thereunder or under any of the Loan Documents to which it is a party;

(x) except in the case of the foregoing indemnification of the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party or any breach by such party of its obligations under the Indenture or any of the Loan Documents or any untrue statement or misleading statement of a material fact by such Indemnified Party contained in any offering statement or document for the Bonds or any of the Loan Documents or any omission or alleged omission from any such offering statement or document of any material fact necessary to be stated therein in order to make the statements made therein by such Indemnified Party not misleading. In the case of the foregoing indemnification of the Issuer, or any related Indemnified Party, they shall not be indemnified by the Borrower with respect to liabilities arising from their own willful misconduct. In the case of the foregoing indemnification of the Trustee, or any related Indemnified Party, they shall not be indemnified by the Borrower with respect to liabilities arising from their own negligence or willful misconduct.

(b) In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided, that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof; provided, that the Issuer has the absolute right to employ separate counsel at the expense of the Borrower. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, that such Indemnified Party other than the Issuer may only employ separate counsel at the expense of the Borrower if and only if

in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation except that the Borrower shall always pay the reasonable fees and expenses of the Issuer's separate counsel.

(c) Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.7 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Issuer, the Trustee and the Servicer have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

(d) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses hereunder 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 shall survive the termination of this Loan Agreement.

(e) Nothing in this Section 5.7 shall in any way limit (i) the Borrower's indemnification and other payment obligations set forth in the Regulatory Agreement, or (ii) the Guarantor's payment obligations under the Payment Guaranty.

## **ARTICLE VI**

### **OPTION AND OBLIGATIONS OF BORROWER TO PREPAY**

#### **Section 6.1 Optional Prepayment.**

(a) The Note and amounts due under Section 3.2(a) hereof are subject to prepayment in order to effect the redemption of the Bonds under Section 4.03 of the Indenture at the option of the Borrower in whole or in part at the times (and not before the times) and at the redemption prices plus accrued interest to the redemption date of the Bonds, Additional Interest and the Prepayment Equalization Payment, if applicable, as set forth in Section 4.03 of the Indenture. The Note is not otherwise subject to optional prepayment by the Borrower.

(b) To effect prepayment of the Note and redemption of the Bonds as contemplated in subparagraph (a) above, the Borrower shall deliver to the Trustee and the Servicer, not less than ninety (90) days (or such lesser number of days acceptable to the Servicer and the Trustee) prior to the date on which Bonds are subject to redemption under said Section, a written certificate of the Borrower stating that the Borrower is prepaying the Note pursuant to this Section 6.1. The certificate from the Borrower shall certify to the following: (i) the principal amount of the Note to be prepaid, (ii) that the amount to be prepaid on the Note shall be credited to redemption of the Bonds pursuant to Section 4.03 of the Indenture, (iii) the date for redemption of the Bonds, and (iv) any conditions to such prepayment.

(c) The options granted to the Borrower in this Section 6.1 shall be exercisable only (i) in the event and to the extent the Bonds are subject to redemption in accordance with the Indenture and (ii) if no Event of Default under any of the Loan Documents shall have occurred and be then continuing or if all costs associated with any existing Event of Default (including, without limitation, late fees, penalties, costs of enforcement, protective advances and interest on such

amounts) which are then due and owing under the Loan Documents are paid in full in connection with such prepayment.

(d) [Notwithstanding anything to the contrary contained in this Loan Agreement, on and after the Conversion Date, optional prepayment of the Loan and the Bonds shall only be permitted at the times and upon the terms and requirements set forth in the Note.]

**Section 6.2 Mandatory Prepayment.** The Loan and amounts due under Section 3.2(a) hereof shall be prepaid in whole or in part in order to effect the mandatory redemption of the Bonds at the times and in the amounts specified in Section 4.01 of the Indenture.

**Section 6.3 Amounts Required for Prepayment.**

(a) The amount payable by the Borrower hereunder upon either (i) the exercise of the option granted to the Borrower in Section 6.1 hereof, or (ii) the mandatory prepayment of the Note by the Borrower in Section 6.2 hereof shall be, to the extent applicable and except as otherwise provided, the sum of the following:

(i) the amount of money necessary to pay the redemption price of the Bonds to be redeemed specified in Section 4.03 of the Indenture, in the case of optional redemption, and Section 4.02 of the Indenture in the case of mandatory redemption, together with all interest (including Additional Interest, if applicable) specified therein payable up to and including said redemption date, Prepayment Equalization Payment (if applicable), and all expenses of the redemption; plus

(ii) in the event of a redemption in whole, an amount of money equal to the Trustee Fee, Trustee's Expenses and Issuer Annual Fee and expenses under the Indenture accrued and to accrue until the final payment and redemption of the Bonds; plus

(iii) in the event of any prepayment during the existence and continuance of an Event of Default, the amounts described in Section 6.1(c)(ii) hereof.

(b) Any prepayment made pursuant to Section 6.1 or 6.2 hereof shall be deposited into the Revenue Fund. No prepayment or investment of the proceeds thereof shall be made which shall cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

**Section 6.4 Cancellation at Expiration of Term.** At the acceleration, termination or expiration of the term of this Loan Agreement and following full payment of the Bonds or provision for payment thereof in accordance with Article XI of the Indenture and of all other fees and charges of all parties having been made in accordance with the provisions of this Loan Agreement and the Indenture, the Issuer shall deliver to the Borrower any documents and take or cause the Trustee to take such actions as may be necessary to effectuate the cancellation and evidence the termination of this Loan Agreement and the Loan Documents (other than the Regulatory Agreement, which shall not terminate except in accordance with the terms thereof).

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.1 Events of Default.** The following shall be “Events of Default” under this Loan Agreement, and the term “Event of Default” shall mean, whenever it is used in this Loan Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay any amounts required to be paid on the Note or under Section 3.2 (a) or (b) hereof within ten (10) days after the same are due;

(b) Any failure by the Borrower to pay as and when due and payable any other sums to be paid by the Borrower under this Loan Agreement and the continuation of such failure for a period of ten (10) 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 to be true and correct when made or renewed; 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 thereunder, 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 Issuer, the Trustee or the Servicer; provided, 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 and is diligently pursued to completion thereafter (unless, in the opinion of Bond Counsel delivered to the Servicer, failure to correct such breach or failure within the cure period herein provided (or such shorter time as shall be established as a limitation on the period of time during which correction may be pursued) will adversely affect the exclusion from gross income of interest on the Bonds for federal income taxation purposes or violate State law, in which case the extension of cure period herein provided will not be available); or

(e) Any Event of Default (as defined or otherwise set forth in the Indenture or any of the Loan Documents, the General Partner Documents or the Guarantor 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 any Obligor or the Managing General Partner or the Co-General Partner of Borrower, or any sale, transfer or other disposition of the Project or of all or substantially all of the assets of Borrower; provided that any such event with respect to the Managing General Partner shall not constitute an Event of Default if the Borrower replaces the Managing General Partner with a person or entity acceptable to the Issuer, Servicer and Majority Owner within thirty (30) days after notice thereof from Issuer, Servicer and Majority Owner; or

(g) Any change in the legal or beneficial ownership of the Borrower or the Managing General Partner or the Co-General Partner of Borrower other than as expressly permitted

by the terms hereof or by the terms of the Partnership Agreement or by reason of the death of the owner of such interests; or

(h) 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

(i) Any Obligor 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; provided that any such event with respect to the Managing General Partner shall not constitute an Event of Default if the Borrower replaces the Managing General Partner with a person or entity acceptable to the Issuer, Servicer and Majority Owner within thirty (30) days after notice thereof from Trustee or Servicer; or

(j) An involuntary petition in bankruptcy under Title 11 of the United States Code shall be filed against the Borrower or any Obligor and such petition shall not be dismissed within ninety (90) days of the filing thereof; provided that any such event with respect to the Managing General Partner shall not constitute an Event of Default if the Borrower replaces the Managing General Partner with a person or entity acceptable to the Issuer, Servicer and Majority Owner within thirty (30) days after notice thereof from Issuer, Servicer and Majority Owner; or

(k) 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

(l) Any uninsured final judgment in excess of \$50,000 shall be rendered against the Borrower and shall remain in force, undischarged, unsatisfied and unstayed, for more than thirty (30) days, whether or not consecutive; or

(m) Any of the Loan Documents, the General Partner Documents or the Guarantor 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 Servicer, or any action at law, suit in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents, the General Partner Documents or the Guarantor 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, the General Partner Documents or the Guarantor Documents is illegal, invalid or unenforceable in accordance with the terms thereof; or

(n) Any refusal by the Title Insurance Company to insure that any advance is secured by the Mortgage as a valid lien and security interest on the Project and the continuation of such refusal for a period of twenty (20) days after notice thereof by Servicer to the Borrower; or

(o) Completion shall not have been attained by the Completion Date; or

(p) Any cessation at any time in construction or equipping of the Improvements for more than twenty (20) consecutive days except for strikes, acts of God, fire or other casualty, or other causes entirely beyond the Borrower's control, or any cessation at any time in construction or equipping of the Improvements for more than sixty (60) consecutive days, regardless of the cause thereof; provided, that such cessation may continue for a period of longer than sixty (60) consecutive days with the consent of the Servicer if the Borrower shall have requested and received an extension of the Completion Date in accordance with the provisions of the Construction Disbursement Agreement, in which case it shall not be an Event of Default hereunder unless and until the period of cessation extends beyond the number of days for which the extension was granted; or

(q) Any of the Indenture, this Agreement, the Regulatory Agreement or the Tax Certificate shall be amended in a material manner (including without limitation any "automatic" amendments of the Regulatory Agreement) without the prior written consent of the Servicer.

## **Section 7.2 Remedies on Default.**

(a) Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, any obligation of the Servicer to approve Requisitions shall be terminated, and the Trustee (but only if directed to do so by Servicer and, subject to the provisions of the Indenture) shall:

(i) by notice in writing to the Borrower declare the unpaid indebtedness under the 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, the General Partner Documents or the Guarantor Documents, as may appear necessary or desirable to collect the payments and other amounts then due and thereafter to become due hereunder or thereunder or under the Note, 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 (including without limitation foreclosure of the Mortgage), any General Partner Document or any Guarantor Document; and

(iii) cause the Project to be completed, rehabilitated and equipped in accordance with the Plans and Specifications, with such changes therein as the Servicer may, from time to time, and in its sole discretion, deem appropriate.

(b) Any amounts collected pursuant to action taken under this Section (other than amounts collected by the Issuer 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 Issuer, the Trustee or the Servicer and their respective Counsel, be paid into the Revenue 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 3.2 hereof.

**Section 7.3 No Remedy Exclusive.** No remedy conferred herein or in any other Loan Document upon or reserved to the Trustee or the Servicer 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 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 Trustee or the Servicer 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 Agreement to Pay Fees and Expenses of Counsel.** If an Event of Default shall occur under this Loan Agreement or under any of the other Loan Documents, and the Issuer, the Trustee, the Servicer should employ counsel or incur other expenses for the collection of the indebtedness or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein or therein contained, the Borrower agrees that it will on demand therefor pay to any such party, or, if so directed by any such party, to its counsel, the reasonable actually incurred fees of such Counsel and all other out-of-pocket expenses incurred by or on behalf of the Issuer, the Trustee, the Servicer.

**Section 7.5 No Additional Waiver Implied by One Waiver; Consents to Waivers.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be effective unless in writing and signed by the party making the waiver.

**Section 7.6 Remedies Subject to Applicable Law.** All rights, remedies, and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the Land and to be limited to the extent necessary so that they will not render this Loan Agreement invalid, unenforceable, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

**Section 7.7 Cure by Investor Limited Partner.** The Issuer, the Trustee and the Servicer agree to accept performance on the part of the Investor Limited Partner as though the same have been performed by the Borrower under any of the Loan Documents. The Issuer, the Trustee and the Servicer will allow the Investor Limited Partner or its Affiliate (a) ten (10) days after giving the Investor Limited Partner notice to cure a monetary default under the Loan Documents other than the payment due at maturity and (b) except as to the insolvency or bankruptcy of the Borrower, up to thirty (30) days after giving the Investor Limited Partner to cure any nonmonetary default under the Loan Documents; provided, however, that in the event of a nonmonetary default that it is not susceptible to being cured within such thirty (30) day period, the Investor Limited Partner, or its

Affiliate, shall have an additional period of up to sixty (60) days to cure such default, provided that the Investor Limited Partner or its Affiliate has commenced to cure such default and is diligently and continuously proceeding to cure such default through the end of the sixty (60) day period. If the Investor Limited Partner or its Affiliate makes any such payment or otherwise offers cure of a default, the same will be accepted or rejected as curing such default on the same basis as if payment or cure were made directly by the Borrower.

**Section 7.8 Issuer Exercise of Remedies.** Notwithstanding anything to the contrary contained herein, the Issuer may enforce its Reserved Rights under the Loan Documents and exercise the permitted remedies with respect thereto against the Borrower; provided, that the Issuer shall not commence or direct the Trustee to commence any action to declare the outstanding balance of the Bonds or the Loan to be due and neither the Issuer nor the Trustee shall take any action in respect of Reserved Rights (i) to foreclose to take similar action under the Mortgage 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, (ii) to appoint a receiver, (iii) to enforce any similar remedy against the Project or other property pledged to secure the Borrower's obligations under the Loan Documents; or (iv) 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.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.1 General Provisions.** The following provisions shall be applicable at all times throughout the term of this Loan Agreement:

(a) The Issuer, the Trustee and the Servicer shall, at all times, be free to establish independently to their respective satisfaction and in their respective absolute discretion the existence or nonexistence of any fact or facts the existence of which is a condition of this Loan Agreement or any other Loan Document.

(b) The Bonds and the obligations and undertakings of the Issuer hereunder do not constitute a general obligation of the Issuer or the State or any political subdivision thereof, and recourse on the Bonds and on the instruments and documents executed and delivered by or on behalf of the Issuer in connection with the transactions contemplated hereby may be had only against certain moneys due and to become due under the Loan Documents (and not against any moneys due or to become due to the Issuer pursuant to the Reserved Rights). No recourse shall be had for the payment of the principal of or interest on the Bonds, or for any claim based thereon or on this Loan Agreement or any other Loan Document, any Issuer Document or any instrument or document executed and delivered by or on behalf of the Issuer in connection with the transactions contemplated hereby, against the Issuer or any member, officer, employee or other elected or appointed official, past, present or future, of the Issuer or any successor body, as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or by any legal or equitable proceeding or otherwise and all such liability of the Issuer or any such incorporation, member, officer, director, employee, any other elected or appointed official or trustee as such is hereby expressly waived and released as a condition of and consideration for the adoption of the resolution authorizing the execution of the Issuer Documents and issuance of the Bonds and the delivery of other documents in connection herewith. No member, officer, employee or other elected or appointed official past, present or future,

of the Issuer or any successor body shall be personally liable on the Issuer Documents, the Bonds or any other documents in connection herewith, nor shall the issuance of the Bonds be considered as misfeasance or malfeasance in office. The Bonds and the undertakings of the Issuer under the Issuer Documents do not constitute a pledge of the general credit or taxing power of the Issuer, the State, or any political subdivision thereof, do not evidence and shall never constitute a debt of the State or any political subdivision thereof (other than the Issuer), and shall never constitute nor give rise to a pecuniary liability of the State or any political subdivision thereof, other than the Issuer.

**Section 8.2 Authorized Borrower Representative.** Pursuant to written direction provided on the Closing Date, the Borrower has appointed one or more Authorized Representatives for the purpose of taking all actions and making all certificates required to be taken and made by the Authorized Representative under the provisions of the Loan Documents. Whenever under the provisions of any Loan Document the approval of the Borrower is required or any party is required to take some action at the request of the Borrower, such approval or such request shall be made by its Authorized Representative, unless otherwise specified in this Loan Agreement, and the Issuer, the Trustee and the Servicer shall be authorized to act on any such approval or request and the Borrower shall have no complaint against any such party as a result of any such action taken in conformity with such approval or request by the Authorized Representative.

**Section 8.3 Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Trustee and the Borrower and their respective successors and permitted assigns. The Borrower acknowledges and agrees that the Issuer has assigned or is assigning its rights under this Loan Agreement to the Trustee, and that, pursuant to the Indenture, Trustee will follow directions from the Servicer in implementing certain of the rights and remedies under this Loan Agreement. The Owners of the Bonds and the Servicer shall be express third party beneficiaries of this Loan Agreement, and shall have the right to enforce directly against Borrower or other persons the rights and implement the rights and remedies provided to each of them hereunder, but not including the Reserved Rights; provided, that the rights of the Owners to bring actions and implement rights and remedies hereunder shall be subject to the same restrictions as are imposed with respect to actions, rights and remedies of the Owners under the Indenture.

**Section 8.4 Execution in 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; provided, that for purposes of perfecting a lien or security interest in this Loan Agreement by the Trustee, whether under Article 9 of the Uniform Commercial Code of the State or otherwise, only the counterpart delivered to, and receipted by, the Trustee shall be deemed the original.

**Section 8.5 Amendments, Changes and Modifications.** Subsequent to the issuance of the Bonds and prior to payment or provision for the payment of the Bonds in full (including interest thereon) in accordance with the provisions of the Indenture and except as otherwise provided herein, the Loan Documents may not be amended, changed, modified, altered or terminated by the Issuer, the Trustee or the Borrower except in compliance with Article IX of the Indenture.

**Section 8.6 Severability.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof and such invalid or unenforceable provision shall be deemed no longer to be contained in this Loan Agreement.

**Section 8.7 Notices.** All notices, demands, requests, consents, approvals, certificates or other communications hereunder shall be effective if given in the manner required in Section 10.08 of the Indenture.

**Section 8.8 Applicable Law; Venue.** This Loan Agreement shall be governed exclusively by and construed in accordance with the laws of the State and any action arising out of this Loan Agreement or the Bonds shall be filed and maintained in the County of Contra Costa, California, unless the Issuer waives this requirement in writing.

**Section 8.9 Debtor Creditor Relationship.** It is expressly understood and agreed that the relationship between the Issuer and the Borrower established by the transaction contemplated by this Loan Agreement and by all of the other Loan Documents is exclusively that of creditor or lender, on the part of the Issuer, and debtor or borrower, on the part of the Borrower and is in no way to be construed as a partnership or joint venture of any kind. It is further understood that all payments by the Borrower under the Loan Documents shall be exclusively on account of the said debtor/creditor relationship.

**Section 8.10 Usury; Total Interest.** This Loan Agreement is subject to the express condition, and it is agreed, that at no time shall payments hereunder, under the Note or under the other Loan Documents that are or are construed to be payments of interest on the unpaid principal amount of the Loan reflect interest that is borne at a rate in excess of the maximum permitted by law. The Borrower shall not be obligated or required to pay, nor shall the Issuer be permitted to charge or collect, interest borne at a rate in excess of such maximum rate. If by the terms of this Loan Agreement or the other Loan Documents the Borrower is required to make such payments reflecting interest borne at a rate in excess of such maximum rate, such payments shall be deemed to be reduced immediately and automatically to reflect such maximum rate. It is further agreed that the total of amounts paid hereunder as interest on the Loan which is to pay interest on the Bonds, cumulative from the date of the Note, shall not exceed the sum of 5% per month, simple and non-compounded for each month from such date to the date of calculation (calculated on the basis of a 360-day year of twelve thirty-day months). Any such excess payment previously made in either case shall be immediately and automatically applied to the unpaid balance of the principal sum of the Loan and not to the payment of interest thereon. This Loan Agreement is also subject to the condition that amounts paid hereunder representing late payment or penalty charges or the like shall only be payable to the extent permitted by law.

**Section 8.11 Term of this Loan Agreement.** This Loan Agreement shall be in full force and effect from its date to and including such date as all of the Bonds issued under the Indenture shall have been fully paid or retired in accordance with their terms and the terms of the Indenture (or provision for such payment shall have been made as provided in the Indenture), except, however, that the covenants and provisions relating to the Reserved Rights of the Issuer and the covenants relating to the preservation of exclusion from gross income of interest on the Bonds for purposes of federal income taxation shall survive the termination hereof.

**Section 8.12 Non-Recourse.** Anything contained in any provision of this Loan Agreement, the Mortgage, the Regulatory Agreement, the Borrower's Tax Certificate or the Note notwithstanding, in the event of any proceeding to foreclose the Mortgage or otherwise to enforce the provisions of the Note, this Loan Agreement, the Mortgage or the Regulatory Agreement after the Conversion Date, neither the Issuer, nor the Trustee or other holder of the Note (collectively, the "Noteholder"), nor any Owner of Bonds, nor any beneficiary of the Mortgage shall be entitled to take

any action to procure any personal money judgment or any deficiency decree against the Borrower or any partner of the Borrower or its or their heirs, personal representatives, successors and assigns, it being understood and agreed that recourse hereon and under the Mortgage, the Regulatory Agreement and the Note shall, following the Conversion Date, be limited to the assets of the Borrower that are the security from time to time provided with respect to the Note and this Loan Agreement; provided, that nothing herein contained shall limit or be construed to limit or impair the enforcement against the Project or any other additional security as may from time to time be given to the beneficiary hereof as security for the performance of this Loan Agreement, the Mortgage, the Regulatory Agreement, the Borrower's Tax Certificate, the Note, or any other instrument now or hereafter securing the Note or this Loan Agreement, or the rights and remedies of the Trustee or the beneficiary, its successors and assigns, under this Loan Agreement, the Mortgage, the Regulatory Agreement, the Tax Certificate or the Note or any other instruments. Notwithstanding the foregoing, the provisions of this Section shall be null and void and have no force and effect to the extent of any loss suffered by the Issuer, the Trustee, any Owner or any beneficiary of or the trustee under the Mortgage as a result of the Borrower's: (a) committing any act of fraud; (b) misapplication of any condemnation award or casualty insurance proceeds; (c) failure to apply the revenues of the Project in the manner and for the purposes provided in the Bond Documents, whether before or after an Event of Default; or (d) violation of any environmental laws. Nothing herein shall be deemed to prohibit the naming of the Borrower in an action to realize upon the remedies provided herein either at law or in equity, subject to the foregoing limitation against a personal money judgment or deficiency decree against the Borrower, the partners of the Borrower or their heirs, personal representatives, successors and assigns, or to prohibit the naming of any person in any action to realize upon the remedies provided in the General Partner Documents, the Guarantor Documents or any other guaranty given in favor of the Issuer, the Trustee or the Servicer.

### **Section 8.13 Limitation on Liability of the Issuer; Issuer May Rely.**

(a) Notwithstanding anything herein or in any other instrument to the contrary, the Issuer shall not be obligated to pay the principal (or redemption price) of or interest on the Bonds, except from moneys and assets received by the Trustee on behalf of the Issuer pursuant to this Loan Agreement. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Issuer is pledged to the payment of the principal (or redemption price) of or interest on the Bonds. The Issuer 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 the Indenture, except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement.

The Borrower hereby acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by the payments made by the Borrower pursuant to this Loan Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or redemption price) of and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or redemption price) of or interest on the Bonds, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

(b) It is expressly understood and agreed by the parties to this Loan Agreement that:

(i) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Owner or the Borrower as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer;

(ii) the Issuer shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Borrower; and

(iii) none of the provisions of this Loan Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Bonds issued under the Indenture) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Loan Agreement unless it first shall have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

(c) No provision, representation, covenant or agreement contained in this Loan Agreement or in the Indenture, the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability (except to the extent of any Loan repayments, revenues and receipts derived by the Issuer pursuant to this Loan Agreement and other moneys held pursuant to the Indenture, other than in the Rebate Fund). Notwithstanding anything herein or in any other instrument to the contrary, no provision hereof shall be construed to impose a charge against the general credit of the Issuer, the State or any other political subdivision of the State, the taxing powers of the foregoing, within the meaning of any Constitutional provision or statutory limitation, or any personal or pecuniary liability upon any official, director, officer, employee, agent or attorney of the Issuer.

(d) All covenants, obligations and agreements of the Issuer contained in this Loan Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future official, director, officer, employee, agent or attorney of the Issuer in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Loan Agreement or in the Indenture. No provision, covenant or agreement contained in this Loan Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Loan Agreement or in any Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project or the issuance and sale of the Bonds, against any member of the governing board of the Issuer, its officers, counsel, financial advisor, employees or agents, as such, in his or her individual capacity, past, present, or future, or of any successor thereto, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall

attach to, or be incurred by, any member of the governing board, officers, counsel, financial advisors, employees or agents, as such, in his or her individual capacity, past, present, or future, of the Issuer or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Trustee or the Borrower to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such director, officer, counsel, financial advisor, employee or agent, is, by the execution of the Bonds, this Loan Agreement, and the Indenture, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Loan Agreement, and the Indenture, expressly waived and released.

**Section 8.14 Waiver of Personal Liability.** No member of the governing board, officer, agent or employee of the Issuer or any director, officer, agent or employee of the Issuer shall be individually or personally liable for the payment of any principal (or redemption price) of or interest on the Bonds or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by this Loan Agreement.

**Section 8.15 PATRIOT Act Notice.** Issuer hereby notifies Borrower and Guarantor that, pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies Borrower and Guarantor, which information includes the names and addresses of Borrower and Guarantor and other information that will allow Issuer to identify Borrower and Guarantor in accordance with the PATRIOT Act.

**Section 8.16 Assignment and Transfer of Note and Loan Documents.** Notwithstanding any contrary provision contained in this Loan Agreement or the Note, the Loan, the Note, the Mortgage and certain other documents executed by the Borrower in connection with the Loan may be transferred and assigned by the Trustee separately from the Bonds, as provided in Section 4.08 of the Indenture.

*[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]*

**IN WITNESS WHEREOF**, the Issuer, the Trustee and the Borrower have caused this Loan Agreement to be executed in their respective names, all as of the date first above written.

**COUNTY OF CONTRA COSTA, CALIFORNIA**

By: \_\_\_\_\_  
John Kopchik, Director  
Department of Conservation and Development

[Signatures continue on following page]

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

By: \_\_\_\_\_  
Authorized Signatory

[Signatures continue on following page]

**ECP PARCEL A SOUTH HOUSING PARTNERS, L.P.,**  
a California limited partnership

By: Related/ECP Parcel A South Development Co., LLC,  
a California limited liability company,  
Its Administrative General Partner

By: \_\_\_\_\_  
Name: Ann Silverberg  
Its: President and Secretary

El Cerrito Plaza MGP, LLC,  
a California limited liability company,  
Its Managing General Partner

By: Affordable Housing Access, Inc.,  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: Vasilios Salamandrakis  
Its: President

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF REAL ESTATE**

The land referred to herein is situated in the State of California, County of Contra Costa, and is described as follows:

[to come]

**EXHIBIT B**  
**FORM OF PROMISSORY NOTES**

[attached]

**EXHIBIT C**  
**PROJECT APPROVALS TO BE OBTAINED**

None

**EXHIBIT D**  
**FORM OF APPROVED RESIDENTIAL LEASE**

[attached]

## **EXHIBIT E**

### **INSURANCE REQUIREMENTS APPLICABLE BEFORE CONVERSION**

In order to close, the insurance specifications set forth in Exhibit C-1 of the Construction Disbursement Agreement must be met; provided that all policies must include EXACTLY the following standard, non-contributory, mortgagee clause:

U.S. Bank Trust Company, National Association  
One California Street, Suite 1000  
Mail Code: SF-CA-SFCT  
San Francisco, CA 94111  
Attention: Corporate Trust Department

Mortgagee must be named as a first Mortgagee with respect to buildings, Loss Payee with respect to loss of rents/business interruption, and Additional Insured with respect to general liability. Mortgagee shall receive notices at the same time and in the same manner as notices sent to Bondholder.

**EXHIBIT F**

**FORM OF MONTHLY LEASE UP REPORT**

**MOVE IN DATABASE**

| <b>Building #</b> | <b>Apt. #</b> | <b># of BR's</b> | <b># of BA's</b> | <b>Set-Aside</b> | <b>Security Deposit</b> | <b>Lease Rent</b> | <b>Certified or Move in Date</b> | <b>Lease Expiration</b> | <b>Total Value of Concessions</b> | <b>Description of Concession</b> | <b>Concession Given at Move In (Y/N)</b> |
|-------------------|---------------|------------------|------------------|------------------|-------------------------|-------------------|----------------------------------|-------------------------|-----------------------------------|----------------------------------|------------------------------------------|
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |
|                   |               |                  |                  |                  |                         |                   |                                  |                         |                                   |                                  |                                          |

**MOVE OUT DATABASE**

| <b>Building #</b> | <b>Apt. #</b> | <b># of BR's</b> | <b># of BA's</b> | <b>Set-Aside</b> | <b>Total Security Deposit</b> | <b>Security Deposit to Tenant</b> | <b>Lease Rent</b> | <b>Move Out Date</b> | <b>Certified or Move in Date</b> | <b>Lease (enter an "x")</b> |                |                |              |
|-------------------|---------------|------------------|------------------|------------------|-------------------------------|-----------------------------------|-------------------|----------------------|----------------------------------|-----------------------------|----------------|----------------|--------------|
|                   |               |                  |                  |                  |                               |                                   |                   |                      |                                  | <b>Skip</b>                 | <b>Evicted</b> | <b>Expired</b> | <b>Other</b> |
|                   |               |                  |                  |                  |                               |                                   |                   |                      |                                  |                             |                |                |              |
|                   |               |                  |                  |                  |                               |                                   |                   |                      |                                  |                             |                |                |              |
|                   |               |                  |                  |                  |                               |                                   |                   |                      |                                  |                             |                |                |              |
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|                   |               |                  |                  |                  |                               |                                   |                   |                      |                                  |                             |                |                |              |