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#2012-1762

**THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA**

**and for Special Districts, Agencies and Authorities Governed by the Board**

**Adopted this Resolution on 06/26/2012 by the following vote:**

| | | |
|---|---|---|
| **AYES:** | 5 | **John Gioia**<br>**Candace Andersen**<br>**Mary N. Piepho**<br>**Karen Mitchoff**<br>**Federal D. Glover** |
| **NOES:** | | |
| **ABSENT:** | | |
| **ABSTAIN:** | | |
| **RECUSE:** | | |

**Resolution No. 2012/287**

RESOLUTION AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGAGE PRINCIPAL AMOUNT NOT TO EXCEED EIGHTEEN MILLION DOLLARS ($18,000,000) FOR THE FINANCING OF A SENIOR RESIDENTIAL RENTAL PROJECT GENERALLY KNOWN AS BERRELLESA PALMS, MARTINEZ.

WHEREAS, the County of Contra Costa (the "County") is authorized to issue multifamily housing revenue bonds pursuant to Section 52075 and following of the California Health and Safety Code;

WHEREAS, the County desires to participate in financing the development of a 49-unit senior residential rental development generally known as Berrellesa Palms and located at 310 Berrellesa Street (also known as 301 Buckley Street, APN 373-243-001-6), Martinez, California (the "Project"), which initially will be owned by Berrellesa Palms, L.P., a California Limited Partnership (the "Borrower") and is expected to be initially operated by Berrellesa Palms, L.P. or another entity selected by the Borrower;

WHEREAS, to assist in financing the Project, the County intends to sell and issue not to exceed $18,000,000 aggregate principal amount of its multifamily housing revenue bonds (the "Bonds") and to loan the proceeds thereof to the Borrower, thereby assisting in providing housing for low income persons;

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), the issuance of the Bonds by the County must be approved by an applicable elected representative with respect to the Project following the conduct of a public hearing on the proposed financing;

WHEREAS, the Board of Supervisors of the County of Contra Costa (the "Board"), is the elected legislative body of the County and is one of the applicable elected representatives authorized to approve the issuance of the Bonds under Section 147(f) of the Code;

WHEREAS, pursuant to Section 147(f) of the Code, the Community Development Bond Program Manager has, following notice duly given, held a public hearing regarding the financing of the Project and the issuance of the Bonds at which no public comments were made; and

WHEREAS, the Board now desires to approve the financing and the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. The Board hereby specifically finds and declares that the statements, findings and determinations of the County set forth above are true and correct.

Section 2. For purposes of Section 147(f) of the Code, the Board hereby authorizes the issuance of Bonds by the County to finance the Project. The sale and delivery of the Bonds shall be subject to the approval by the County of all financing documents to which it is a party.

Section 3. The adoption of this Resolution does not (1) relieve or exempt the Borrower from obtaining any other permits or approvals that are required by, or determined to be necessary from, the County in connection with the Project, nor (2) obligate the

County to incur any obligation or provide financial assistance with respect to the Bonds or the Project.

Section 4. All actions heretofore taken by the officers and agents of the County with respect to the financing of the Project and the sale and issuance of Bonds are hereby approved, ratified and confirmed, and any authorized officer of the County is hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute and deliver any an all certificates, agreements and other documents, which any such officer may deem necessary or advisable in order to effectuate the purposes of this Resolution.

Section 5. This Resolution shall take effect upon its adoption.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact: Kristen Lackey, 925-674-7888**

**ATTESTED: June 26, 2012**
David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

**cc:**

#2012-1762

**THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA**

**and for Special Districts, Agencies and Authorities Governed by the Board**

**Adopted this Resolution on 12/04/2012 by the following vote:**

AYES: Gioia, Andersen, Piepho, Mitchoff, Glover

NOES: None

ABSENT: None

ABSTAIN: None

**Resolution No. 2012/498**

RESOLUTION 2012/498 AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE NOTES IN A PRINCIPAL AMOUNT NOT TO EXCEED $14,500,000 TO FINANCE THE ACQUISITION AND CONSTRUCTION OF A MULTIFAMILY RENTAL HOUSING PROJECT FOR BERRELLESA PALMS, L.P., AND OTHER MATTERS RELATING THERETO

WHEREAS, the County of Contra Costa (the "County") is authorized pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") to issue bonds and notes for the purpose of financing multifamily rental housing facilities; and

WHEREAS, Berrellesa Palms, L.P., a California limited partnership (the "Borrower") has requested that the County issue multifamily housing revenue notes (the "Notes") and loan the proceeds of the Notes to the Borrower to finance the acquisition and construction by the Borrower of a 49 unit senior residential rental housing development (the "Development") located at 301 Buckley Street in Martinez, California; and

WHEREAS, on June 6, 2012, the Community Development Bond Program Manager of the County held a public hearing on the proposed issuance of Notes by the County for, and the financing, ownership and operation of, the Development, as required under the provisions of the Internal Revenue Code (the "Code") applicable to tax-exempt obligations, following published notice of such hearing, and communicated to the Board of Supervisors of the County all written and oral testimony received at the hearing; and

WHEREAS, on June 26, 2012, the Board of Supervisors of the County adopted Resolution No. 2012/287 authorizing the issuance of the Notes to finance the Development in satisfaction of public approval the requirements of the Code; and

WHEREAS, the California Debt Limit Allocation Committee adopted its Resolution No. 12-100 on September 26, 2012 allocating $14,500,000 of the State of California ceiling on private activity bonds for 2012 to the County for the purpose of financing the Development; and

WHEREAS, in order to assist in the financing of the Development, the County has determined to issue the Notes, as authorized by the Act, and sell the Notes to Bank of the West (the "Bank") pursuant to a funding loan agreement (the "Funding Loan Agreement") between the County and the Bank, and to use the proceeds of the sale of the Notes to the Bank to make a loan to the Borrower pursuant to a borrower loan agreement (the "Borrower Loan Agreement") between the County and the Borrower, with amounts due from the County to the Bank under the Notes and the Funding Loan Agreement to be payable solely from amounts paid by the Borrower under the Borrower Loan Agreement; and

WHEREAS, there have been prepared various documents with respect to the issuance by the County of the Notes, copies of which are on file with the Clerk of the Board, and the Board of Supervisors now desires to approve the issuance of the Notes and the execution and delivery of such documents by the County; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Notes as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. The Board of Supervisors hereby finds and declares that the foregoing recitals are true and correct.

Section 2. Pursuant to the Act and the Funding Loan Agreement, the Notes designated as "County of Contra Costa Multifamily Housing Revenue Construction/Permanent Note, Series 2012B (Berrellesa Palms)" and "County of Contra Costa Multifamily Housing Revenue Construction Note, Series 2012B (Berrellesa Palms)," in an aggregate principal amount of not to exceed $14,500,000, are hereby authorized to be issued. The Notes shall be executed by the manual or facsimile signature of the Chair of the Board of Supervisors (the "Chair"), in the form set forth in and otherwise in accordance with the Funding Loan Agreement.

Section 3. The Funding Loan Agreement between the County and the Bank, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Chair of the Board of Supervisors, the Vice-Chair of the Board of Supervisors, the County Administrator, the Director of Conservation and Development and the Community Development Bond Program Manager (collectively, the "Designated Officers") is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Funding Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Funding Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof, provided that no additions or changes shall authorize an aggregate principal amount of the Notes in excess of the amount set forth in Section 2 above), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Funding Loan Agreement by the County. The date, maturity dates, interest rate or rates, privileges, manner of execution, place of payment, terms of redemption and other terms of the Notes shall be as provided in the Funding Loan Agreement as finally executed.

Section 4. The Borrower Loan Agreement between the County and the Borrower, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized to execute and deliver the Borrower Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Borrower Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such changes to be conclusively evidenced by the execution and delivery of the Borrower Loan Agreement by the County.

Section 5. The regulatory agreement and declaration of restrictive covenants relating to the Development, between the County and the Borrower (the "Regulatory Agreement"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Regulatory Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Regulatory Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Regulatory Agreement by the County.

Section 6. The Assignment of Deed of Trust and Loan Documents, by the County to the Bank (the "Assignment"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Assignment in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Assignment upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Assignment by the County.

Section 7. The Notes, when executed, shall be delivered to the Bank (as the purchaser of the Notes), in accordance with written instructions executed on behalf of the County by any one of the Designated Officers of the County, which instructions said officers are hereby authorized, for and in the name and behalf of the County, to execute and deliver. Such instructions shall provide for the delivery of the Notes to the Bank upon the funding by the Bank of the initial advance of the purchase price of the Notes as described in Section 2.1(b) of the Funding Loan Agreement.

Section 8. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Notes. The fees and expenses of such firm for matters related to the Notes shall be payable solely from the proceeds of the Notes or contributions by the Borrower.

Section 9. All actions heretofore taken by the officers and agents of the County with respect to the issuance of the Notes are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Notes in accordance with this Resolution, including but not limited to any certificates, agreements and other documents described in the Funding Loan Agreement, the Borrower Loan

Agreement, the Regulatory Agreement or the Assignment, or otherwise necessary to issue the Notes and consummate the transactions contemplated by the documents approved by this Resolution.

Section 10. This Resolution shall take effect upon its adoption.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

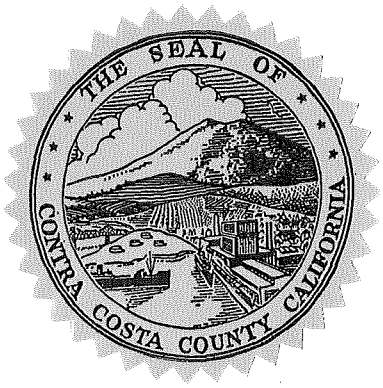
**ATTESTED: December 4, 2012**

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

**Contact: Kristen Lackey, 674-7888**

**cc:**



#2012-1762

# BORROWER LOAN AGREEMENT

**by and between the**

**COUNTY OF CONTRA COSTA, CALIFORNIA,**
**as Governmental Lender**

**and**

**BERRELLESA PALMS, L.P.,**
**A CALIFORNIA LIMITED PARTNERSHIP,**
**as Borrower**

**dated as of December 1, 2012**

**relating to:**
**$14,050,000**
**Funding Loan originated by BANK OF THE WEST, as Funding Lender**
**from the proceeds of the**
**$2,021,016**
**County of Contra Costa**
**Multifamily Housing Revenue Construction/Permanent Note,**
**Series 2012B (Berrellesa Palms) and**
**$12,028,984**
**County of Contra Costa**
**Multifamily Housing Revenue Construction Note,**
**Series 2012B (Berrellesa Palms)**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain Unassigned Rights, as described herein) has been pledged and assigned to Bank of the West, as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and between the County of Contra Costa, California (the "Governmental Lender") and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

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# BORROWER LOAN AGREEMENT

THIS BORROWER LOAN AGREEMENT (this "Borrower Loan Agreement") is entered into as of the first day of December, 2012, between the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic of the State of California (together with its successors and assigns, the "Governmental Lender") and BERRELLESA PALMS, L.P., a California limited partnership (together with its successors and assigns, the "Borrower").

*RECITALS:*

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

WHEREAS, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "Act"), the Governmental Lender is authorized, among other things, (a) to make loans to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing to be occupied in part by persons meeting the income limits set forth in the Act; (b) to incur indebtedness that is a limited obligation of the Governmental Lender for the purpose of obtaining moneys to make such loans and provide such financing; and (c) to pledge the revenues and receipts to be received by the Governmental Lender from or in connection with such loans to borrowers, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender received in connection with such loans in order to secure the payment of the principal of, Prepayment Premium, if any, on and interest on such indebtedness of the Governmental Lender; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the "Borrower Loan") for the acquisition and construction of a 49 unit multifamily rental senior housing project to be located at 301 Buckley Street in Martinez, California, known or to be known as Berrellesa Palms (as more particularly defined herein, the "Project"); and

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

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, dated as of December 1, 2012 (the "Funding Loan Agreement"), between the Governmental Lender and Bank of the West (the "Funding Lender"), under which the Funding Lender will make a loan (the "Funding Loan") to the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement by the Governmental Lender to the Borrower to finance the acquisition and construction of the Project; and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time, the "Trust Deed"), dated as of December 1, 2012, for the benefit of the Governmental Lender, and assigned by the Governmental Lender to the Funding Lender to secure the Funding Loan, which Trust Deed encumbers the Project, and the Borrower Loan will be advanced to the Borrower pursuant to this Borrower Loan Agreement.

*AGREEMENT:*

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

## ARTICLE I

## DEFINITIONS; PRINCIPLES OF CONSTRUCTION

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

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

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles as in effect from time to time ("GAAP").

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

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

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

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

"Act" has the meaning given such term in the second recital to this Borrower Loan Agreement.

"Additional Borrower Payments" shall mean, collectively, the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments In Default), Section 6.4 (Borrower Loan in Balance), and Section 8.34 (Expenses) of this Borrower Loan Agreement, and Section 10 of each of the Borrower Notes (Voluntary and Involuntary Prepayments).

"Agreement to Furnish Insurance" shall mean the Agreement to Furnish Insurance, dated as of December 1, 2012, by the Borrower to the Governmental Lender.

"Affiliate" has the meaning given such term in the Funding Loan Agreement.

"Architect" means KTGY, being the person or firm employed by Borrower to design and/or supervise the construction of the Project.

"Assignment of Agreements" means the Assignment of Agreements, Permits, Licenses and Approvals (Architectural, Engineering & Construction Contracts), dated as of December 1, 2012, by Borrower, with consents thereto executed by General Contractor and Architect.

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

"Beneficiary Parties" shall mean, collectively, the Funding Lender and the Governmental Lender.

"Board of Supervisors" means the Board of Supervisors of the Governmental Lender.

"Borrower" shall have the meaning given such term in the first paragraph of this Borrower Loan Agreement.

"Borrower Construction Note" shall mean that certain County of Contra Costa Multifamily Construction Note (Berrellesa Palms), dated as of the Initial Closing Date, in the original maximum principal amount of $12,028,984, made by Borrower and payable to Governmental Lender, as endorsed and assigned without recourse by the Governmental Lender to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Borrower Construction/Permanent Note" shall mean that certain County of Contra Costa Multifamily Construction/Permanent Note (Berrellesa Palms) dated as of the Initial Closing Date in the original principal amount of $2,021,016 made by Borrower and payable to Governmental Lender, as endorsed and assigned without recourse by the Governmental Lender to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

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

"Borrower Initial Equity" shall mean an initial installment of the Equity Contributions made to Borrower by the Equity Investor in an amount of at least $557,000.00 to be made on or prior to the Initial Closing Date.

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

"Borrower Loan Agreement" shall mean this Borrower Loan Agreement.

"Borrower Loan Amount" shall mean $14,050,000, being the combined original maximum principal amount of the Borrower Notes.

"Borrower Loan Documents" shall mean this Borrower Loan Agreement, the Borrower Notes, the Trust Deed, the Environmental Indemnity, the Guaranty, the Regulatory Agreement and all other documents or agreements evidencing or relating to the Borrower Loan.

"Borrower Loan Fee" shall mean the fee to be paid to the Funding Lender in consideration for the Funding Lender's agreeing to make the Funding Loan and entering into the Funding Loan Agreement and this Borrower Loan Agreement, which fee shall not be subject to reduction or be refundable under any and all circumstances, and which fee is payable upon Recordation of the Trust Deed in an amount as agreed upon by the Funding Lender and the Borrower in a separate fee letter.

"Borrower Loan Payment Date" shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Notes, or (ii) any other date on which one or more of the Borrower Notes are prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

"Borrower Loan Payments" shall mean the regularly scheduled loan payments payable pursuant to the Borrower Notes.

"Borrower Loan Proceeds" shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Articles V and VI hereof.

"Borrower Note" or "Borrower Notes" shall mean, individually or collectively, as the context shall require, the Borrower Construction/Permanent Note and the Borrower Construction Note.

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

"Borrower's Equity" means $4,937,613.00 which have been or shall be paid by or on behalf of the Borrower from sources other than proceeds of the Borrower Loan or of any other borrowing from any person.

"Borrower's Funds" means the initial sum of $10,000 to be made available by Borrower in a form satisfactory to the Funding Lender prior to Recordation of the Trust Deed, for deposit and/or disbursement in the manner and for the purposes described in this Borrower Loan Agreement, and any additional such sums requested by the Funding Lender under the terms of this Borrower Loan Agreement.

"Borrower's Funds Account" means a special non-interest bearing account into which Borrower's Funds, when requested by Funding Lender, shall be deposited pending disbursement in the manner and for the purpose herein described. Borrower's Funds deposited in this account shall be disbursed before further proceeds of the Borrower Loan are disbursed.

"Borrower's Interest" means the rate or rates of interest to be paid to the Funding Lender in respect of the Borrower Loan as set forth in the Borrower Notes.

"Business Day" shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in the City of San Francisco,

California, are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

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

"Certified Invoice" shall mean a certified invoice for progress payments as customarily used by the Funding Lender, the form of which has been delivered by the Funding Lender and received by the Borrower concurrently with the execution hereof, or its equivalent acceptable to the Funding Lender.

"Change Orders" shall mean any amendments or modifications to the General Contract or any subcontract.

"Code" shall mean the Internal Revenue Code of 1986 as in effect on the Initial Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Initial Closing Date, together with applicable Treasury Regulations.

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

"Completion Date" shall mean the date of required completion of construction of all of the Improvements and issuance of all licenses and permits necessary for the occupancy and use thereof, which is, as to all of the Improvements, October 1, 2014.

"Completion Guarantor" shall mean the person(s) obligated on a Completion Guaranty, initially Resources for Community Development.

"Completion Guaranty" shall mean an agreement, executed and delivered by the Completion Guarantor, on the Funding Lender's form, guaranteeing completion of the Improvements.

"Computation Date" shall have the meaning given such term in Section 1.148-3(e) of the Treasury Regulations.

"Conditions to Conversion" shall have the meaning given such term in EXHIBIT F hereto.

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

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

"Construction Schedule" has the meaning given such term in Section 5.1.6 of this Borrower Loan Agreement.

"Contingency Draw-Down Agreement" shall mean the Contingency Draw-Down Agreement, dated as of December 1, 2012, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from, in part, a draw down loan to a fully funded loan.

"Continuing Disclosure Agreement" shall mean that certain Continuing Disclosure Agreement dated as of December 1, 2012, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Initial Closing Date, as amended, supplemented or restated from time to time.

"Conversion" shall mean Funding Lender's determination that the Conditions to Conversion have been satisfied in accordance with the provisions of Article III of this Borrower Loan Agreement.

"Conversion Date" shall mean the date to be designated by Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with Article III hereof and EXHIBIT F hereto have been made, and which shall occur not later than the Outside Conversion Date.

"Cost Breakdown" shall mean an itemized schedule on a component, unit and trade breakdown basis covering all costs of constructing and completing the Improvements, to be submitted to and approved by the Funding Lender, with such subsequent changes as Borrower deems necessary or desirable and as are approved by the Funding Lender in writing pursuant to Section 8.28 or as otherwise determined by the Funding Lender. The initial Cost Breakdown is attached to this Borrower Loan Agreement as EXHIBIT B.

"Costs of Funding" shall mean the Governmental Lender's Closing Fee and all other fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, Borrower's counsel and Funding Lender's counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) printing costs (for any preliminary and final offering materials relating to the Funding Loan); (v) any recording fees; and (vi) costs incurred in connection with the required public notices generally and costs of the public hearing held by the Board of Supervisors of the Governmental Lender in connection with the Funding Loan.

"Costs of Funding Deposit" shall mean the amount required to be deposited by the Borrower with the Title Company to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Initial Closing Date.

"County" shall mean the County of Contra Costa, California.

"Cumulative Change Order Amount" shall mean $50,000.00.

"Date of Disbursement" shall mean the date of a Disbursement.

"Day" or "Days" shall mean calendar days unless expressly stated to be Business Days.

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

"Default Interest" shall mean the rate of interest specified in each Borrower Note which shall be in effect with respect to the indebtedness evidenced by each Borrower Note upon the occurrence of an Event of Default.

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

"Developer Fee" shall mean the fees and/or compensation payable to Resources for Community Development pursuant to the Development Services Agreement dated as of December 1, 2012, between Borrower and such developer, which fees and/or compensation shall not be paid prior to the Conversion Date except as permitted pursuant to an approved developer fee schedule.

"Disbursement" means any disbursement of the proceeds of the Borrower Loan in accordance with the Disbursement Schedule.

"Disbursement Schedule" shall mean the schedule of disbursement of the proceeds of the Borrower Loan and of any Borrower's Equity or Borrower's Funds as set forth on EXHIBIT A attached hereto and by this reference made a part hereof.

"Environmental Indemnity" shall mean the Environmental Indemnity Agreement, dated as of December 1, 2012, by Borrower.

"Equity Contributions" shall mean the equity to be contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement.

"Equity Investor" shall mean Union Bank, N.A., a national banking association, and its permitted successors and assigns.

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

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

"Expenses" shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), a property management fee, costs of insurance, costs of social services, coordination fees, costs of audits and any Funding Lender–required monthly deposit to any replacement reserve for the Project. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

"Extended Outside Conversion Date" shall mean June 1, 2015.

"Extension Fee" shall mean the fee to be paid by Borrower for an extension (if any) of the Outside Conversion Date provided for in EXHIBIT F of this Borrower Loan Agreement, which fee shall not be subject to reduction or be refundable under any and all circumstances, and which extension fee is payable upon execution of the loan extension documents in an amount as agreed upon by the Funding Lender and Borrower in a separate fee letter.

"Financial Statements" shall mean financial statements of the Borrower and Guarantor and such other entity required by the Funding Lender including Operating Statements, Balance Sheet and such other financial reports that the Funding Lender may require.

"Fair Market Value" shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury

Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

"Funding Lender" shall mean Bank of the West, in its capacity as lender under the Funding Loan Agreement.

"Funding Loan" means the Funding Loan in the original maximum principal amount of $14,050,000 made by Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

"Funding Loan Agreement" means the Funding Loan Agreement, dated as of December 1, 2012, between the Governmental Lender and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

"Funding Loan Documents" shall have the meaning given to that term in the Funding Loan Agreement.

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

"General Contract" shall mean the contract between Borrower and General Contractor for construction of the Improvements.

"General Contractor" shall mean Segue Construction, Inc.

"General Partner" shall mean, collectively, (i) 112 Alves Lane, Inc., a California nonprofit public benefit corporation, and/or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender's approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

"Governmental Authority" shall mean the authority of the United States, the State or any political subdivision thereof, any city and any agency, department, commission, board, bureau or instrumentality of any of them.

"Governmental Lender" shall have the meaning set forth in the first paragraph of this Borrower Loan Agreement.

"Governmental Lender Notes" or "Governmental Lender Note" shall mean, collectively or individually, as the context shall require, the Governmental Lender Construction/Permanent Note and the Governmental Lender Construction Note.

"Governmental Lender Construction Note" shall mean that certain County of Contra Costa Multifamily Housing Revenue Construction Note, Series 2012B (Berrellesa Palms), dated the Initial Closing Date, in the original maximum principal

amount $12,028,984, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Governmental Lender Construction/Permanent Note" shall mean that certain County of Contra Costa Multifamily Housing Revenue Construction/Permanent Note, Series 2012B (Berrellesa Palms), dated the Initial Closing Date, in the original principal amount $2,021,016, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Governmental Lender Fee" shall have the meaning given such term in the Funding Loan Agreement.

"Governmental Lender's Closing Fee" shall mean the fee of the Governmental Lender payable on Initial Closing Date in accordance with Section 4.A.(d)(i) of the Regulatory Agreement.

"Governmental Requirement" or "Local Requirement" shall mean any law, ordinance, order, rule or regulation of a Governmental Authority or Local Authority, respectively, including, but not limited to, the applicable general and specific plans, if any, and the zoning, subdivision, grading and building ordinances, any applicable tentative subdivision map and conditions of approval thereof, and any conditional use permits, planned development permit or plan and the conditions of approval thereof.

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

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

(a) the net amount (after payment of all Costs of Funding) of Funding Loan proceeds received by or on behalf of the Governmental Lender as a result of the origination of the Funding Loan;

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

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

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

"Guarantor" shall mean the Guarantor of obligations evidenced by the Borrower Notes, being Resources for Community Development.

"Guaranty" shall mean the guaranty, executed by the person or persons named herein as Guarantor which guarantees the performance of Borrower's obligations pursuant to the Borrower Notes and any other obligations referred to in such Guaranty.

"Improvements" shall mean the Site Improvements for the Property, and all other improvements comprising the Project.

"Initial Closing" shall mean the time of the execution and delivery hereof by Borrower and Governmental Lender.

"Initial Closing Date" shall mean December 19, 2012, being the date of the initial advance of Funding Loan under the Funding Loan Agreement, and of the Borrower Loan under this Borrower Loan Agreement.

"Initial Disbursement" shall mean the payment upon Recordation of the Trust Deed of costs, charges, expenses and items associated with the Borrower Loan, as set forth in Section 6.1 hereof.

"Indemnified Party" shall have the meaning set forth in Section 8.35 hereof.

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

"Interest Rate" shall mean with respect to a Borrower Note the rate of interest accruing on such Borrower Note as provided therein.

"Late Charge" shall mean the amount due and payable as a late charge on overdue payments under the Borrower Notes, as provided in Section 7 of each Borrower Note and Sections 2.5(a)(v) and 2.6 hereof.

"Lease" shall mean a written agreement between Borrower, as landlord, and a Tenant concerning premises in the Project leased by such Tenant, which shall be in form and substance subject to the Funding Lender's approval.

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

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

"Liabilities" shall have the meaning set forth in Section 8.35 hereof.

"Lien" shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or

security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

"Local Authority" shall mean any Governmental Authority which exercises jurisdiction over the Property or construction thereon.

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

"Manager" shall mean the John Stewart Company.

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

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

"Note Proceeds Subaccount" shall mean the subaccount by that name created within the Borrower's Funds Account pursuant to Section 8.1 hereof.

"Obligor" shall mean Borrower, each Guarantor, each general partner of Borrower or Guarantor (if Borrower or such Guarantor is a partnership), and any guarantor, co-maker, endorser, or any person or entity other than Borrower providing security for the Borrower Notes.

"Outside Conversion Date" shall mean March 1, 2015.

"Partnership Agreement" means that certain First Amended and Restated Limited Partnership Agreement of the Borrower dated as of December 18, 2012, as the same may be amended, restated or modified in accordance with its terms.

"Payment Obligations" shall mean all obligations of Borrower for the payment of money to the Governmental Lender or to any other person under the Borrower Notes, this Borrower Loan Agreement or under any other Borrower Loan Document.

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

"Permanent Period Amount" shall mean the amount of the Funding Loan determined in connection with Conversion pursuant to the provisions of EXHIBIT F attached hereto.

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

"Personal Property" shall mean that property described in the Trust Deed or Security Agreements which is not Real Property and which is collateral for the Borrower Loan.

"Plans and Specifications" shall mean all of the plans and specifications for the construction of the Improvements (including the General Conditions set forth by the FHA, VA or American Institute of Architects whichever is appropriate or whichever is incorporated in the specifications or other General Conditions and any addenda thereto) for the construction of the Improvements prepared by Borrower's Architect, and approved as required herein and all amendments and modifications thereof made by approved Change Orders, including all architectural drawings and renderings, reports, engineering plans and specifications, reports and plans, surveys and any other instrument or document designated by the Funding Lender, all of which are subject to approval by the Funding Lender. (The Plans and Specifications listed in EXHIBIT C if any, have been approved by the Funding Lender prior to the Initial Closing).

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

"Pre-Conversion Loan Equalization Payment" has the meaning given such term in Section 3.3(a) hereof.

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

"Project" shall mean the acquisition and construction of a 49 unit multifamily rental housing project known as Berrellesa Palms, located in the City of Martinez, California, on the real property site described in Exhibit A to the Regulatory Agreement.

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

"Project Costs" shall mean all costs of acquisition of the Property, if any, the design, development and construction of the Improvements, and related insurance, carrying costs and financing costs of the Project incurred during the term of this Borrower Loan Agreement.

"Property" or "Real Property" shall mean that certain real property located in the City of Martinez, a legal description of which is attached to or is otherwise incorporated in the Trust Deed and the Regulatory Agreement, and on which the Improvements are to be constructed.

"Provided Information" shall have the meaning set forth in Section 14A.1.1 (a) hereof.

"Qualified Project Costs" shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Treasury Regulations, provided, however, that only such portion of the interest accrued during construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliate of the Borrower (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing the Project (or any portion thereof), and (B) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an "affiliated group" (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to May 8, 2012, being the date on which the Board of Supervisors of the Governmental Lender adopted Resolution No. 2012/196 declaring the Governmental Lender's "official intent" to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Treasury Regulations), and (iv) if the costs of the acquisition and construction of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) "preliminary expenditures" (within the meaning of Section 1.150-2(f)(2) of the Treasury Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction of the Project that do not exceed twenty percent (20%) of the issue price of the Funding Loan (as defined in Section 1.148-1 of the Treasury Regulations), or (C) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditures is paid); provided, however, that (y) Costs of Funding are not Qualified Project Costs, and (z) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 144(a)(3) of the Code) are not Qualified Project Costs.

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

"Rebate Analyst" shall mean the rebate analyst selected by the Borrower prior to the Initial Closing Date and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be Eichner Norris & Neumann PLLC.

"Rebate Analyst's Fee" shall mean the annual fee of the Rebate Analyst in the amount of $700.00. The Rebate Analyst's Fee is payable by the Borrower to the Rebate Analyst, commencing on the Conversion Date, every fifth anniversary thereof, and the Maturity Date (as defined in the Funding Loan Agreement).

"Rebate Fund" shall mean the Rebate Fund created pursuant to Section 5.34 hereof.

"Recordation" shall mean the act of recording the Trust Deed or other applicable document in the official records of the County.

"Regulatory Agreement" has the meaning given such term in the Funding Agreement.

"Retainage" shall mean the amount, if any, withheld from each Disbursement in accordance with Schedule 1 hereto.

"Secondary Market Disclosure Document" shall have the meaning set forth in Section 14A.1.2 hereof.

"Secondary Market Transaction" shall have the meaning set forth in Section 14A.1.1 hereof.

"Securities" shall have the meaning set forth in Section 14A.1.1 hereof.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Security Agreements" shall mean any agreements, other than the Trust Deed, securing the Borrower Loan, the Borrower's performance hereunder and interest, costs and charges associated therewith (including but not limited to any assignments of contracts and rights which may be required under this Borrower Loan Agreement).

"Site Improvements" shall mean the work of grading the Property and installation of utilities, streets, sidewalks, if any, and other improvements for the Property.

"Special Tax" shall mean, as to any property (a) any special assessment or other tax which is or may become a lien affecting such property, other than general ad valorem real property taxes, and (b) any assessment, improvement, community facilities or other special taxing district in or into which such property is or may be located or incorporated or under which any special assessment or other tax which is or may become a lien affecting such property is or may be imposed.

"Standard & Poor's" or "S&P" shall mean Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business division, and its successors.

"State" shall mean the State of California.

"Subordinate Debt" shall mean the subordinate loans to Borrower being made by Subordinate Lender pursuant to the Subordinate Loan Documents, as set forth in EXHIBIT E hereto.

"Subordinate Lender" shall mean the lenders identified in EXHIBIT E hereto.

"Subordinate Loan Documents" shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or Subordinate Lender in connection with the Subordinate Debt.

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

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

"Tax Certificate" has the meaning given to such term in the Funding Loan Agreement.

"Tax Counsel" shall have the meaning given such term in the Funding Loan Agreement.

"Tenant" shall mean an occupant or intended occupant of the Project pursuant to a Lease.

"Title Insurer" shall mean North American Title Insurance Company, as issuer of the Title Policy in connection with the Initial Closing Date.

"Title Policy" shall mean the Funding Lender's title insurance policy for the Trust Deed, with all endorsements required to be issued by Title Insurer under Section 8.3 hereof.

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

"Treasury Regulations" has the meaning given such term in the Funding Loan Agreement.

"Trust Deed" shall mean the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California), dated as of December 1, 2012, encumbering the Project and made by the Borrower in favor of the Governmental Lender, as assigned by the Governmental Lender to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan and the Governmental Lender Notes. The Trust Deed is referred to in the Funding Loan Agreement as the "Security Instrument."

"Unassigned Rights" has the meaning given to such term in the Funding Loan Agreement.

"Written Consent" and "Written Notice" shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

## ARTICLE II

## GENERAL

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

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

Section 2.2 Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Notes and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Trust Deed) and (b) the amounts on deposit from time to time in any and all funds established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Notes, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

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

(i) Tax Covenants. Seek specific performance of, and enforce, the provisions of Section 8.7 of the Funding Loan Agreement, the Tax Certificate and Section 8.51 of this Borrower Loan Agreement, seek injunctive relief against acts which may be in violation of any of such provisions, and enforce the Borrower's obligations under Section 8.52 of this Borrower Loan Agreement (including the obligation to pay amounts for credit to the Rebate Fund);

(ii) Regulatory Agreement. Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided,

however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (as defined in Section 2.2(e) below), if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the use of other funds; and

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

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

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

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

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

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

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

(e) As used in this Section 2.2, the term "Excess Revenues" means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts in each case which the Borrower is required to set aside pursuant to the Borrower Loan Documents or agreements with parties that are not Affiliates of the Borrower, but excluding depreciation and amortization of intangibles.

Section 2.3 Borrower Loan; Borrower Notes; Conditions to Closing.

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

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

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

(ii) delivery into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) (and/or as specified in the closing memorandum of the Funding Lender); and

(iii) payment of all fees payable in connection with the closing of the Borrower Loan, including the Governmental Lender's Closing Fee.

In addition, closing of the Borrower Loan shall be subject to the delivery of a Tax Counsel Approving Opinion, dated as of the Initial Closing Date, addressed to the Governmental Lender (with a reliance letter to the Funding Lender, and an opinion of counsel to the Borrower addressed to the Governmental Lender, dated the Initial Closing Date, in form and substance acceptable to the Governmental Lender.

(c) Subject to the conditions set forth in Articles V and VI and elsewhere in this Borrower Loan Agreement, the Funding Loan shall be funded directly to the Borrower by the Funding Lender through this Borrower Loan Agreement, in one or more installments not to exceed the Borrower Loan Amount in accordance with the disbursement procedures set forth in this Borrower Loan Agreement. Upon funding of each installment of the Funding Loan, the Governmental Lender shall be deemed to have made the Borrower Loan to the Borrower in a like principal amount. Borrower Loan advances and Funding Loan advances shall be allocated first to the Borrower Construction/Permanent Note and the related Governmental Lender Construction/Permanent Note, and once the foregoing Borrower Note has been fully funded, to the Borrower Construction Note and the related Governmental Lender Construction Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Notes. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition and construction of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in

the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

Section 2.4 Borrower Loan Payments. The Borrower shall make Borrower Loan Payments in accordance with the Borrower Notes. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Funding Lender by 2:00 p.m., San Francisco time, on the Borrower Loan Payment Date. Each such payment shall be made to the Funding Lender by deposit to such account as the Funding Lender, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Notes in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

Section 2.5 Additional Borrower Payments.

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

(i) to the Funding Lender, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 8.52 hereof and the Rebate Analysts' Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Governmental Lender, the Governmental Lender Fee and all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred by the Governmental Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, counsel fees and expenses incurred in connection with the interpretation, performance, or amendment of the Borrower Loan Documents or the Funding Loan Documents, and counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan, or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

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

(iv) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment, and all counsel fees and expenses relating to the enforcement of, the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit; and

(v) any Late Charge due and payable under the terms of the Borrower Notes and Section 2.6 hereof.

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

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

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

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

Section 2.6 Overdue Payments; Payments In Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Funding Lender, a Late Charge in the amount and to the extent set forth in the Borrower Notes, if any.

Section 2.7 Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Trust Deed and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Funding Lender for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default following expiration of applicable notice and cure periods, the Funding Lender shall apply or cause to be applied any sums held by the Funding Lender with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.8 Marshalling; Payments Set Aside. The Governmental Lender and Funding Lender shall be under no obligation to marshal any assets in favor of Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that Borrower makes a payment or payments or transfers any assets to the Governmental Lender or Funding Lender, or the Governmental Lender or Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender or Funding Lender and any and all remedies available to the Governmental Lender or Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against Borrower, Guarantor or General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender and Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the

consideration paid to or received by Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender or Funding Lender in connection with the exercise by the Governmental Lender or Funding Lender of its rights under this Section 2.8.

## ARTICLE III

## CONVERSION

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

Section 3.2 Notice From Funding Lender; Funding Lender's Calculation Final.

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

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

Section 3.3 Mandatory Prepayment of the Borrower Loan.

(a) As further provided in this Borrower Loan Agreement, if and to the extent the Permanent Period Amount is less than the outstanding amount of the Funding Loan as of the Conversion Date, Funding Lender may in its sole discretion require Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the outstanding principal amount of the Funding Loan as of the Conversion Date and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment").

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

Section 3.4 Release of Remaining Loan Proceeds. If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to Borrower, Funding Lender shall deliver Written Notice thereof to Borrower on or before the Conversion Date. Within ten (10) business days after delivery of such notice, but in no event later than the Outside Conversion Date (or, if applicable, the Extended Outside Conversion Date), Funding Lender shall disburse Borrower Loan proceeds to Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by Borrower to Funding Lender.

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

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

## ARTICLE IV

## CONDITIONS PRECEDENT TO RECORDATION

Prior to Recordation of the Trust Deed the following conditions shall have been satisfied:

Section 4.1 Borrower Loan Documents. Funding Lender shall have received:

4.1.1 the executed Borrower Notes;

4.1.2 the executed Trust Deed;

4.1.3 [intentionally omitted];

4.1.4 the executed letter regarding authorized signatures, from Borrower;

4.1.5 the executed Environmental Indemnity;

4.1.6 each Guaranty duly executed by the Guarantor(s);

4.1.7 each Completion Guaranty duly executed by each Completion Guarantor or such other or additional persons as may be required by Funding Lender; and

4.1.8 a UCC-1 Financing Statement naming Borrower as "debtor" and Funding Lender as "secured party".

4.1.9 the executed Agreement to Furnish Insurance;

4.1.10 the executed Assignment of Agreements;

4.1.11 a Consent to Assignment of Assignment of Agreements, Permits, Licenses and Approvals, duly executed by each of the General Contractor and the Architect;

4.1.12 an executed authorization to obtain credit (Borrower);

4.1.13 the executed Funding Loan Agreement;

4.1.14 an executed fee letter;

4.1.15 the executed Contingency Draw-Down Agreement;

4.1.16 the executed Continuing Disclosure Agreement;

4.1.17 executed title and closing instructions;

4.1.18 an executed assignment of deed of trust and loan documents;

4.1.19 an executed assignment of development fee;

4.1.20 an executed assignment of rights under housing assistance payments contract;

4.1.21 an executed assignment of rights under management agreement;

4.1.22 a subordination agreement duly executed by the Borrower, the Funding Lender and the Governmental Lender;

4.1.23 an assignment of deposit account; and

~~4.1.24 UCC financing statements.~~

Section 4.2 Due Diligence Items. Funding Lender shall also have received:

4.2.1 original insurance policies or certificates thereof for the insurance required by Section 8.13 hereof;

4.2.2 a preliminary title report issued by Title Insurer showing the condition of title to the Property with the Property's legal description and a copy of all documents listed as exceptions to said title report;

4.2.3 all Borrower's Funds required;

4.2.4 if requested by Funding Lender, a current survey of the Property including dimensions, delineations and locations of all easements thereon, certified to Funding Lender in form and substance acceptable to Funding Lender, and satisfactory to the Title Insurer if required by it;

4.2.5 if requested by Funding Lender, a performance bond naming Funding Lender as co-obligee, and labor and material payment bond, in a penal sum equal to the amount of the General Contract, or if none, then in such amounts as Funding Lender may require, in form and content and with corporate sureties meeting the statutory requirements of the state in which the Property is situated, and otherwise satisfactory to Funding Lender;

4.2.6 an Opinion of Counsel from Borrower's counsel as to the legality of the matters set forth in Sections 7.1, 7.2, 7.3, 7.6, 7.7, 7.12, 7.15, 7.16 and 7.19 hereof;

4.2.7 if Borrower is a corporation, a certificate of good standing and (if applicable), qualification to do business, together with:

(a) if the Borrower is a corporation, its articles of I=incorporation and all amendments thereof; and

(b) a certified Resolution of Borrower Controlling Entity authorizing the consummation of the transactions on the part of the Borrower contemplated hereby and providing for the execution of a written direction of payment if Borrower Loan proceeds are to be paid to a person other than Borrower;

4.2.8 if Borrower is a Joint Venture, the Joint Venture Agreement and recorded Statement of Joint Venture, including all amendments;

4.2.9 if Borrower is a General Partnership, the Partnership Agreement and the filed and/or recorded Statement of General Partnership (GP-1), including all amendments;

4.2.10 if Borrower is a Limited Partnership, a certificate of status issued by the appropriate Governmental Authority, together with the Limited Partnership Agreement and the filed and/or recorded Certificate of Limited Partnership (LP-1), including all amendments;

4.2.11 if Borrower is a Limited Liability Partnership, a certificate of status issued by the appropriate Governmental Authority, together with the Partnership Agreement and the filed and/or recorded Certificate of Limited Liability Partnership (LLP-1), including all amendments;

4.2.12 if Borrower is a Limited Liability Company, a certificate of status issued by the appropriate Governmental Authority, together with the filed and/or recorded Articles of Organization (LLC-1) and the Operating Agreement and Management Agreement (if applicable), including all amendments;

4.2.13 if Borrower is a trust, a copy of the relevant portions of the declaration of trust or a trustee's certificate of trust executed pursuant to California Probate Code Section 18100.5 in form and substance satisfactory to Funding Lender;

4.2.14 for any Guarantor or Completion Guarantor which is not a natural person, the equivalent documents which would be required for such an entity as Borrower under Section 4.2.6 through 4.2.13 hereof, as applicable;

4.2.15 the Intercreditor and Subordination Agreement, dated as of December 1, 2012, among the Governmental Lender, the Borrower and the Funding Lender with respect to the Junior Loan, as defined therein;

4.2.16 an opinion of local counsel selected by Borrower and satisfactory to Funding Lender to the effect that (i) upon due authorization and execution by the parties thereto and upon such recording or filing thereof as may be specified in the opinion, the Borrower Notes, Trust Deed, this Borrower Loan Agreement, the Guaranty, the Environmental Indemnity and the Completion Guaranty will be legal, valid and binding instruments, enforceable against the makers thereof in accordance with their respective terms; (ii) the Trust Deed creates the lien it purports to create on the Property, and effectively assigns the leases purported to be assigned thereby, and stating the manner of recording or filing to be effected in order to establish, preserve and protect the Funding Lender's interest therein, and whether there is any necessity for the re-recording or re-filing of such instruments and setting forth such re-recording or re-filing requirements, if any; (iii) Funding Lender, by making and administering the Borrower

Loan, (a) shall not be deemed to be doing business in the state in which the Property is located or, if the making of the Funding Loan constitutes doing business in that state, that the Funding Lender has been duly qualified to do business in that state, (b) shall not become subject to the payment of any income, franchise, capital or other similar taxes or assessments with respect to its ownership of the note or the receipt of principal or interest thereunder other than customary corporate income taxes on the interest received thereon, and (c) shall not be violating the usury laws of that state; and (iv) as to such other matters incident to the transactions contemplated hereby, as Funding Lender may require;

4.2.17 if requested by Funding Lender, a copy of the applicable general and specific plans, if any, and the zoning, subdivision, grading and building ordinances, the applicable tentative subdivision map and conditions of approval thereof, and any conditional use permit or planned development permit or plan and the conditions of approval thereof, each certified by an appropriate official to be true, complete and up to date;

4.2.18 the Plans and Specifications for the Site Improvements;

4.2.19 copies of letters from local utility companies or Local Authority stating that electric, gas, sewer, water and telephone facilities will be available to the Property upon completion of the Improvements;

4.2.20 copies of all applicable easements, covenants, conditions and restrictions, and other agreements pertaining to operation or development of the Property; and

4.2.21 if Borrower is organized under the laws of a jurisdiction other than that in which the Property is located, original certificates of qualification to do business issued by the applicable Governmental Authority for the State in which the Property is located.

## ARTICLE V

## CONDITIONS PRECEDENT TO DISBURSEMENT

Section 5.1 Initial Disbursement Conditions. Prior to the Initial Disbursement the following conditions shall have been satisfied, in addition to those in Article IV:

5.1.1 Recordation of the Trust Deed and the Regulatory Agreement shall have occurred.

5.1.2 Title Insurer shall have issued or agreed to issue the Title Policy described in Section 8.3 hereof, naming Funding Lender as insured to the extent of the Borrower Loan amount.

5.1.3 Where required by Funding Lender, UCC-1 Financing Statements shall have been filed with the Secretary of State for the state where the Borrower is organized, describing the Personal Property.

5.1.4 Funding Lender shall have been furnished with a certificate issued by the filing officer of the Secretary of State for the state where Borrower is organized, showing Funding Lender's UCC-1 Financing Statement as prior to all other UCC-1 Financing Statements in Borrower's name relative to the Personal Property.

5.1.5 If one or more bonds have been required under Section 4.2.5, then such bond(s) shall have been delivered to Funding Lender (or to the appropriate Local Authority); and any conditions of its effectiveness shall have been fully satisfied.

5.1.6 Borrower shall submit a construction "time line" schedule or critical path schedule (the "Construction Schedule") to Funding Lender for Funding Lender's review and approval and Funding Lender shall have approved the Construction Schedule in its sole and absolute discretion.

Section 5.2 Subsequent Disbursement Conditions. Prior to making Disbursements after the Initial Disbursement, except for the last Disbursement, the following conditions shall have been satisfied:

5.2.1 The Initial Disbursement shall have occurred.

5.2.2 No Event of Default shall exist under any Funding Loan Documents or Borrower Loan Document.

5.2.3 All the conditions for the disbursement set forth in the paragraph indicated under Part II of the Disbursement Schedule shall have been satisfied.

5.2.4 The Funding Lender will require conditional mechanic's lien waiver matching the current Certification & Application for Payment G-702 in an AIA G702/G703 format or similar payment request from the General Contractor

5.2.5 The Funding Lender will require an unconditional lien waiver for the prior month's payment which the Funding Lender disbursed to the Borrower for the Borrower to pay to the General Contractor.

5.2.6 The Funding Lender will require conditional mechanics' lien waiver matching the current Certification & Application for Payment in an AIA G702/G703 format or similar from either specific sub-contractors posing any concern in regards to payment or performance or from monthly list of all subcontractors and material supplier to the General Contractor requesting funds that period.

5.2.7 The Funding Lender will require unconditional mechanics' lien waivers given prevailing known circumstances from either specific sub-contractors posing any concern in regards to payment or performance, or from the monthly list of all sub-contractors and material suppliers to the General Contractor that were to have been paid from the prior month's disbursement.

5.2.8 If Funding Lender requests, it shall have received a list of the names and addresses of all material dealers, laborers and subcontractors with whom agreements have been made by the General Contractor and/or Borrower to deliver materials to and/or perform work on the Improvements.

5.2.9 The representations and warranties of Borrower made in Article VII hereof shall be true and correct on and as of the date of the disbursement with the same effect as if made on such date.

5.2.10 The Improvements shall not have been materially injured or damaged by fire or other casualty unless Funding Lender shall have received insurance proceeds sufficient in its judgment to effect the satisfactory restoration of the Improvements and to permit the completion of the Improvements prior to the Completion Date.

5.2.11 If and when Funding Lender requests, Borrower shall have deposited into the Borrower's Funds Account, cash in the amount, estimated by Funding Lender, necessary to

pay for the costs of completion of construction of the Improvements to the extent that the aggregate amount of the undisbursed Loan proceeds and Borrower's Funds that are then available, designated for the payment of the remaining costs to be incurred in the completion of construction of the Improvements is, in the opinion of Funding Lender, insufficient therefor.

5.2.12 Advice from Funding Lender's inspection agent to the effect that, to date, the Improvements have been constructed in accordance with the Plans and Specifications and that the present state of construction of the Improvements will, barring then unforeseen and unknown delays, permit completion of construction of the Improvements on or before the Completion Date.

5.2.13 Funding Lender shall have received: (a) if required by Funding Lender, the building permits, grading permits, or any other authorization, if any, which may be required from the Local Authority or Governmental Authority, or a "permit ready" letter from the Local Authority or the Governmental Authority for any such matters; (b) copies of the Plans and Specifications; (c) a copy of the General Contract, or, if none, copies of major contracts; (d) assignments to Funding Lender on Funding Lender's form of the plans and written consent thereto by the person or firm that prepared them and a copy of the Architect's agreement, if any, together with assignments thereof to Funding Lender on Funding Lender's form, with written consent thereto by said Architect; (e) assignment to Funding Lender of the General Contract and consent thereto by the General Contractor; (f) the Cost Breakdown; and (g) unless waived by Funding Lender, a signed acknowledgement of and consent to Funding Lender's first position security interest in any Off-Site Materials (as defined in Section 8.6 below).

5.2.14 If Funding Lender so requests, the Title Insurer shall have agreed to issue its continuation endorsement to Funding Lender indicating that since the last preceding disbursement to Borrower or General Contractor, there has been no change in the state of title, that there are no intervening liens which may now or hereafter take priority over the disbursement to be made and that there are no survey exceptions not theretofore approved by Funding Lender.

Section 5.3 Final Construction Disbursement Conditions. Prior to the last Disbursement, the conditions set forth in Section 5.2 above shall be satisfied and in addition the following conditions shall have been satisfied by Funding Lender's receipt of:

5.3.1 advice from Funding Lender's inspection agent to the effect that the Improvements have been completed in accordance with the Plans and Specifications;

5.3.2 a conditional lien waiver upon final payment for the disbursement of retention to the Borrower to payment General Contractor, and either proof of the Borrower paying the same to the General Contractor or an unconditional lien waiver upon final payment from the General Contractor with ten (10) business days from the date the final disbursement was paid to Borrower;

5.3.3 evidence that Borrower has filed the Notice of Completion of the Improvements necessary to establish commencement of the shortest statutory period for the filing of mechanics' and materialmen's liens;

5.3.4 CLTA Endorsement 101.6 issued by Title Insurer subsequent to expiration of the period during which any lien for labor, services or material may be validly recorded against the Property or the Improvements or a 101.13 lien free endorsement or such other endorsements to Funding Lender's Title Insurance Policy as Funding Lender may require which shall insure that the Improvements have been completed free of all mechanics' and materialmen's liens or claims thereof;

5.3.5 evidence of approval of completion of the Improvements by Borrower (if Borrower is not an owner builder); and

5.3.6 evidence of approval of completion of the Improvements by the Guarantor, as such approval is deemed appropriate by Funding Lender.

Section 5.4 Back up Documentation; Form of Request. Funding Lender may require copies of paid invoices, cancelled checks or other backup information as Funding Lender may require in connection with each Disbursement. Funding Lender may elect to require differing backup documentation for costs of labor and materials incorporated into the Improvements and for soft costs and fees, and may change the documentation requirements from time to time during the term of the Borrower Loan with notice to Borrower. Funding Lender may provide Borrower with a required form of disbursement request or may elect to utilize a form provided by Borrower or the General Contractor.

Section 5.5 Special Conditions. All Disbursements shall be subject to satisfaction of any applicable special conditions pursuant to EXHIBIT F.

Section 5.6 Insurance. Within 10 days of the payment of the Disbursement of retention, Borrower must provide Funding Lender with evidence that the Builder's Risk Policy has been replaced with Property Insurance, as such capitalized terms are used and otherwise in accordance with the provisions and requirements in the Agreement to Furnish Insurance.

## ARTICLE VI

## BORROWER LOAN DISBURSEMENT

The proceeds of the Borrower Loan and Borrower's Funds shall be used only for the payment of Project Costs in accordance with the Plans and Specifications and other costs related thereto, as set forth on the Disbursement Schedule, and shall be disbursed as follows:

Section 6.1 Initial Disbursement. Immediately following Recordation of the Trust Deed and the Regulatory Agreement, and upon satisfaction of the conditions of Section 5.1 hereof, Funding Lender shall disburse in accordance with the Disbursement Schedule the Initial Disbursement to pay all costs, charges and expenses incurred in connection with the Borrower Loan or payable pursuant to this Borrower Loan Agreement, the Trust Deed or Security Agreements, excluding direct costs of labor and materials related to the Improvements, and including but not limited to Borrower Loan fees (which are deemed earned at Recordation of the Trust Deed and are not refundable in whole or part), service charges, title charges, tax and lien service charges, recording fees, escrow fees, appraisal fees, legal fees, real property taxes and assessments, insurance premiums, fees payable in connection with any commitment to provide permanent financing of the Improvements, and any amount required to pay existing loans affecting the Property.

Section 6.2 Subsequent Disbursement. Upon satisfaction of the conditions of Section 5.2 hereof, Funding Lender shall disburse directly to Borrower or, at Funding Lender's option, directly to General Contractor or to such persons as have actually supplied labor, material or services in connection with or incidental to the construction of the Improvements (or for the payment of the cost of any of Borrower's undertakings hereunder, in the Borrower Notes, the Trust Deed or the Security Agreements), such sums as are required for the payment of interest on the Borrower Loan and costs and expenses of construction of the Improvements and Disbursements shall be made in accordance with the applicable provisions of the Disbursement Schedule. Any funds disbursed hereunder to Borrower shall be received by

Borrower in trust and Borrower agrees that the same shall be used only for the payment of those items contemplated by the particular Disbursement.

Section 6.3 Final Disbursement. The final Disbursement shall be the payment of any monies retained from progress payments or draws as set forth in the Disbursement Schedule. Subject to the provisions of this Borrower Loan Agreement, the final Disbursement shall be made only after Borrower has satisfied the conditions of Section 5.3 hereof and delivered or caused to be delivered to Funding Lender in addition to those required under Section 8.3 hereof, such additional endorsements or such additional policies of title insurance with endorsements thereto as Funding Lender may require, with a liability limit of not less than the aggregate principal amount of the Borrower Notes, issued by Title Insurer, with coverage and in form satisfactory to Funding Lender, insuring Funding Lender's interest under the Trust Deed as a first lien on the Property, excepting only such items as shall have been approved in writing by Funding Lender. However, Funding Lender may withhold the final Disbursement until Borrower has furnished Funding Lender with the written approval of such final Disbursement by Title Insurer and the surety on any bond required by Funding Lender.

Section 6.4 Disbursement Limits; Deficiency of Borrower Loan Funds. Funding Lender shall not be required to disburse an aggregate amount of the Borrower Loan proceeds for labor furnished to and materials incorporated into the Improvements during any stage of construction which exceeds the lesser of the value of such labor or materials or the amount allocated to that stage of construction as set forth in the Disbursement Schedule, and in any event, Funding Lender shall not be required to disburse any amount which, in Funding Lender's opinion, will reduce that portion of the undisbursed Borrower Loan proceeds designated for the cost of completion of construction of the Improvements below that needed to pay for the labor and material necessary to complete the Improvements. Any deficiency of funds, as determined by Funding Lender, shall be corrected by an immediate deposit of Borrower's Funds into the Borrower's Funds Account upon ten (10) days notice from Funding Lender.

Section 6.5 [Reserved.]

## ARTICLE VII

## REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower represents and warrants (which representations and warranties shall survive any investigations, inspections or inquiries made by Funding Lender or by Governmental Lender or any of their respective representatives or any Disbursements made by Funding Lender hereunder) that:

Section 7.1 Formation and Qualification. Borrower, if a corporation, is duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and is duly qualified in the state in which the Project is located, and if a partnership, trust or other entity is duly formed and validly existing under the laws of the jurisdiction of its formation and, in the case of a limited partnership or limited liability company formed under the laws of a jurisdiction other than the State in which the Project is located, is duly registered in such State; and if Borrower is a corporation, limited liability company, or limited partnership, Borrower further is in good standing in the State in which the Project is located, and Borrower has all requisite power and authority to conduct its business and to own and lease its properties.

Section 7.2 Borrower Loan Documents. The execution, delivery and performance of the Borrower Loan Documents are within Borrower's power and authority, have been duly

authorized by all necessary action and do not and will not (a) require any authorization, consent, approval, order, license, permit, exemption or other action by or from, or any filing, registration or qualification with, any Governmental Authority or other person, which has not been obtained, (b) contravene the organizational documents and governing agreements of Borrower, any applicable laws or other requirements or any agreement or restriction binding on or affecting Borrower or its property, or (c) result in or require the creation or imposition of any lien or right of others upon or with respect to any property now or in the future owned by Borrower (other than liens in favor of the Funding Lender). No authorization, consent, approval, order, license, permit, exemption or other action by or from, or any filing, registration or qualification with, any Governmental Authority or other person, which has not been obtained is required for the creation of the security interests in the Property or other assets of Borrower pursuant to the Trust Deed and Security Agreements or the enforcement by the Funding Lender of its remedies under the Borrower Loan Documents. Each Borrower Loan Document, when executed and delivered, will constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other similar laws affecting the rights of creditors generally.

Section 7.3 Project Information. The Borrower and, to the best knowledge of the Borrower, any prior developer of the Project and any Governmental Authority having jurisdiction over the Project have complied in all material respects with all Governmental Requirements and other requirements relating to the division and development of the Property, and the Borrower is, and construction of the Improvements in accordance with the terms of this Borrower Loan Agreement will be in compliance in all material respects with all Governmental Requirements and other requirements relating to the Project. The development and use of the Property for its intended purpose do not require the payment of extraordinary fees or assessments or the construction of other improvements not set forth in the Cost Breakdown and the Plans and Specifications, will not contravene any Governmental Requirements or other requirements, and are not subject to any other legal, contractual or practical impediments which are material in the aggregate. The Cost Breakdown is based on information deemed reliable by the Borrower and represents the Borrower's best estimate of all Project Costs that will be required in connection with the Project, and all Project Costs shown in the Cost Breakdown as "Previously Paid by Borrower" have been paid in full.

Section 7.4 Plans and Specifications, Defects. The Plans and Specifications are satisfactory to Borrower, have been approved by Guarantor and Completion Guarantor, and to the extent required by Governmental Requirement or Local Requirement or any effective restrictive covenant, by all Local Authorities and the beneficiary of any such covenant respectively; all construction, if any, heretofore performed on the Improvements has been performed within the perimeter of the Property in accordance with the Plans and Specifications and any restrictive covenants applicable thereto; there are no structural defects in the Improvements, and no violation of any Governmental Requirement or Local Requirement exists with respect thereto.

Section 7.5 Financial Statements. The Financial Statements heretofore delivered to Funding Lender are true and correct in all respects, have been prepared in accordance with generally accepted accounting practice, fairly present the respective financial conditions of the subjects thereof as of their respective dates, no Material Adverse Change has occurred in the financial conditions reflected therein since their respective dates and no additional borrowings have been made by Borrower since the date thereof other than the borrowing contemplated hereby or approved by Funding Lender.

Section 7.6 Litigation. There are no actions, suits or proceedings pending, or to the knowledge of Borrower threatened against or affecting it, the Property, Guarantor or

Completion Guarantor or involving the validity or enforceability of the Trust Deed or the priority of the lien thereof, at law or in equity, or before or by any Governmental Authority or Local Authority. To the Borrower's knowledge it is not in default with respect to any order, writ, injunction, decree or demand or any court or any Governmental Authority or Local Authority.

Section 7.7 No Breach. The consummation of the transaction hereby contemplated and performance of this Borrower Loan Agreement, Trust Deed and Security Agreements and any other Borrower Loan Documents and Funding Loan Documents will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, bank loan or security agreement, corporate charter, by-laws or other instrument or agreement to which the Borrower is a party or by which it may be bound or affected.

Section 7.8 Utilities. All utility services necessary for the construction of the Improvements and the operation thereof for their intended purpose are either available at the boundaries of the Property or all necessary steps have been taken by Borrower and Local Authority to assure the complete construction, installation, connection and use of utility services for the full utilization of the Improvements, including water supply, storm and sanitary sewer facilities, gas, electric and telephone facilities.

Section 7.9 Certified Invoice. Each Certified Invoice shall be true and accurate and the submission of same or the receipt of the funds so requested shall constitute a reaffirmation of the representations, warrants and covenants contained herein.

Section 7.10 Other Liens. Borrower has made no contract or arrangement of any kind, the performance of which by the other party thereto would give rise to a lien on the Property, except for its arrangements with Borrower's Architect, the General Contractor or the major subcontractors if there is no General Contractor, and as may otherwise be approved by the Funding Lender.

Section 7.11 Streets. All streets, sidewalks, if required, and other offsite improvements necessary for the full utilization of the Improvements for their intended purposes have either been completed or the necessary rights-of-way therefor have either been acquired by Local Authority or have been dedicated to public use and accepted by Local Authority and all necessary steps have been taken by Borrower and Local Authority to assure the complete construction and installation thereof so as not to impede the construction, approval for occupancy or sale of the Project.

Section 7.12 Legality of Sales; Special Taxes. The Property is not subject to or affected by any existing or proposed Special Taxes (other than Special Taxes approved in writing by the Funding Lender after the date of this Borrower Loan Agreement), and any common areas to be transferred to a homeowners association are separately transferable in compliance with all applicable Governmental Requirement or Local Requirement and other requirements.

Section 7.13 [Reserved.]

Section 7.14 [Reserved.]

Section 7.15 No Default. There is no default on the part of Borrower under this Borrower Loan Agreement or any other Borrower Loan Document, and no event has occurred and is continuing which with notice or the passage of time or either would constitute a default under any thereof.

Section 7.16 CC&R's; Zoning. Borrower has examined, is familiar with, and the Improvements will in all respects conform to and comply with all covenants, conditions, restrictions, reservations and Governmental Requirement or Local Requirement affecting the Property.

Section 7.17 Title to Personal Property. Any personal property required by Funding Lender as additional security for the Borrower Notes is vested in Borrower free and clear of all liens, encumbrances and adverse claims and that the security interest of Funding Lender in the personal property shall be a first lien thereon.

Section 7.18 Other Financing. Borrower has not received other financing for either the acquisition of the Property or the construction and installation of the Improvements except as has been specifically disclosed in writing to, and approved by, Funding Lender prior to Recordation of the Trust Deed.

Section 7.19 Borrower's Powers. Borrower has full power and authority to execute this Borrower Loan Agreement, the Borrower Notes, the Trust Deed, the Security Agreements and the Regulatory Agreement, and to undertake and consummate the transactions contemplated hereby and thereby, and to pay, perform and observe its conditions, covenants, agreements and obligations herein and therein contained.

Section 7.20 Commissions and Fees. Borrower has not dealt with any person, firm or corporation who is or may be entitled to any finder's fee, brokerage commission, loan commission or other sum in connection with the execution of this Borrower Loan Agreement, the consummation of the transactions contemplated hereby and the making of the Borrower Loan by Funding Lender to Borrower, and Borrower does hereby indemnify and agree to hold Funding Lender and Governmental Lender harmless from and against any and all loss, cost liability or expense, including attorney's fees, Funding Lender or Governmental Lender may suffer or sustain should such warranty or representation prove inaccurate in whole or in part.

Section 7.21 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 7.22 Approval of the Borrower Loan Documents and Funding Loan Documents. By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender in any manner.

Section 7.23 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 7.24 Requirements of Act, Code and Treasury Regulations. The Project satisfies all requirements of the Act, the Code and the Treasury Regulations applicable to the Project.

Section 7.25 Regulatory Agreement. The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Treasury Regulations, and pursuant to leases which comply with all applicable laws.

Section 7.26 Intention to Hold Project. The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 7.27 Survival of Representations and Covenants. All of the representations and warranties in this Article VII and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or on its behalf.

## ARTICLE VIII

## BORROWER'S COVENANTS

Borrower covenants and agrees as follows, until the full and final payment of the Borrower Loan, unless Funding Lender waives compliance in writing:

Section 8.1 Borrower's Funds. At the time and in amounts required by Funding Lender, Borrower shall deposit Borrower's Funds in the Borrower's Funds Account. Borrower's Funds shall be disbursed from such account in the manner provided in Article VI herein. Should it appear at any time that the total undisbursed proceeds of the Borrower Loan together with any Borrower's Funds then held by Funding Lender are insufficient, in Funding Lender's good faith judgment, to provide the financing for the completion of the Improvements, Borrower, within ten (10) days following receipt of written demand by Funding Lender for additional funds, shall pay to Funding Lender an amount equal to such deficiency as expressed in said demand for deposit in the Borrower's Funds Account.

Notwithstanding the foregoing, there is hereby created within the Borrower's Funds Account, as of the Initial Closing Date, a Note Proceeds Subaccount into which shall be deposited the proceeds of the Borrower Loan funded on the Initial Closing Date as described in Section 2.1(b) of the Funding Loan Agreement. Amounts in the Note Proceeds Account shall be disbursed in the same manner as are funds on deposit in the Borrower's Funds Account; provided that available funds in the Borrower's Funds Account, other than funds in the Note Proceeds Subaccount, shall be used for purposes of the Borrower's Funds Account before any amounts in the Note Proceeds Account are used for such purposes.

Section 8.2 Improvements Inspection. Borrower shall permit Funding Lender and Governmental Lender, or their respective representatives (and Funding Lender and

Governmental Lender shall have the right) to enter upon the Property, inspect the Improvements and all materials to be used in the construction thereof and to examine the Plans and Specifications and all detailed plans and shop drawings which are or may be kept at the construction site and will cooperate, and Funding Lender shall have the right to have Borrower cause the General Contractor or, if none, the major subcontractors, to cooperate with Funding Lender. Inspection by Funding Lender of construction shall be for the purpose of protecting the security of Funding Lender and such inspection is in no way to be construed as a representation that there is a compliance with the Plans and Specifications or that the construction is free from faulty material or workmanship.

Section 8.3 Title Insurance. Borrower shall deliver or cause to be delivered to Funding Lender at Recordation of the Trust Deed or within a reasonable time thereafter an ALTA 1970 Loan Policy of Title Insurance (LP-10 Package, if applicable), or its equivalent, with a liability limit of not less than the face amount of the Borrower Notes, issued by Title Insurer, insuring Funding Lender's interest under the Trust Deed as a valid first lien on the Property, together with such reinsurance or coinsurance agreements and endorsements to said policy as Funding Lender may require. Said policy shall contain only such exceptions from its coverage as shall have been approved in writing by Funding Lender. After Recordation of the Trust Deed, Borrower shall at its own cost and expense, maintain the Trust Deed as a first lien on the Property and deliver or cause to be delivered to Funding Lender from time to time the endorsements and policies referred to herein.

Section 8.4 Construction Start. Borrower shall not commence construction of the Improvements, including grading and site clearance, or undertake any act on the Property prior to Recordation of the Trust Deed, the result of which would cause any mechanics' or materialman's lien thereafter filed to take priority over the lien of the Trust Deed unless Title Insurer provides Funding Lender with insurance satisfactory to Funding Lender protecting Funding Lender against any such mechanic's or materialman's liens; and to cause construction of the Improvements to be commenced not more than thirty (30) days after the Recordation of the Trust Deed and thereafter to diligently prosecute such construction so that the same will be completed, in any event, on or before the Completion Date.

Section 8.5 Plans and Specifications. If the Plans and Specifications for the Site Improvements, the buildings comprising the Improvements, or both, have not been completed, approved by Borrower and Funding Lender, and listed on EXHIBIT C of this Borrower Loan Agreement prior to Recordation of the Trust Deed, then anything herein to the contrary notwithstanding, (a) Borrower shall not permit any contractor to commence work on any of the Site Improvements or building for which Borrower and Funding Lender have not executed a revised EXHIBIT C setting forth the approved Plans and Specifications therefor pursuant to clause (b), below, nor shall any disbursements of Loan proceeds or of funds from a Borrower's Funds Account be available for any line item of the Cost Breakdown until the same are so approved by Borrower and Funding Lender, and (b) promptly after Recordation of the Trust Deed, Borrower shall deliver to Funding Lender for approval the Plans and Specifications for the applicable portions of the Improvements, and when approved by Funding Lender, Borrower and Funding Lender each shall execute a revised EXHIBIT C to this Borrower Loan Agreement specifying the approved Plans and Specifications. Once approved by Funding Lender, the prior written consent of Funding Lender shall be required for any change in the Plans and Specifications which is material. A change shall be considered "material" if it: (i) constitutes a material change in the building material or equipment specifications, the architectural or structural design, value, or quality of any of the Improvements, including but not limited to any of the matters described in clause (b) of Section 8.27, or (ii) would result in an increase in any one cost item shown in the Cost Breakdown (an "Item") for each respective building in excess of the Cumulative Change Order Amount. Borrower shall notify Funding Lender as soon as practical regarding all changes whether or not such change is subject to

Funding Lender's approval. Except as provided above, there shall be no change in the Plans and Specifications without the prior written consent of Funding Lender. All requests for approval shall be submitted on a change order form acceptable to Funding Lender signed by Borrower and, if required by Funding Lender, the Architect and the General Contractor, if any, accompanied by working drawings and a written narrative of the proposed change. As a condition to any such approval, Funding Lender may require satisfactory evidence of the cost of the proposed change and the time necessary to complete the proposed change; and, to the extent Funding Lender determines that the proposed change shall result in an increase in cost, Funding Lender shall have the right to require Borrower to deposit funds in the Borrower's Funds Account. Borrower acknowledges that this approval process may result in delays and Borrower consents to all such reasonable delays. No such delay will result in the extension of the Completion Date. Upon Funding Lender's request, Borrower, the Architect, and the General Contractor, shall initial the copy of the Plans and Specifications delivered to, and approved by, Funding Lender as a true copy of the Plans and Specifications for the Improvements. Borrower shall maintain at all times a full and complete set of working drawings for the Improvements available for inspection by Funding Lender. Within ten (10) days after Funding Lender's request, Borrower shall deliver to Funding Lender complete as-built Plans and Specifications, if available, for the Improvements completed.

Section 8.6 Contractor Lists. Within ten (10) days following Funding Lender's request, Borrower shall furnish to Funding Lender a list of all major contractors, subcontractors and material suppliers to be employed in connection with the construction of the Improvements. Each list shall set forth:

(a) the name, address and telephone number of each contractor, subcontractor and material supplier; and

(b) the dollar amount of each contract, subcontract and material contract; and

(c) the amount paid to each contractor, subcontractor and material supplier through the date of each list; and

(d) the dollar amount of the work performed and material supplied under each contract, subcontract and material contract through the date of each list; and

(e) if any of the materials supplied are to be delivered to, or stored at, a location not on the Property ("Off-Site Materials"), the exact location at which the Off-Site Materials will be delivered and stored must be shown. In such event, Borrower must provide Funding Lender with a written consent, in form and content satisfactory to Funding Lender, executed by the seller of such Off-Site Materials and acknowledging Funding Lender's first position security interest in the Off-Site Materials and consenting thereto.

Section 8.7 General Contractor Covenant. Borrower shall require covenants from the General Contractor to the same effect as the covenants made by Borrower in the preceding Sections 8.5 and 8.6, and Borrower shall cause General Contractor, upon request, to deliver to Funding Lender the names of all persons with whom General Contractor has contracted or intends to contract for the construction of the Improvements or for the furnishing of labor or materials therefor.

Section 8.8 Other Contractors. Borrower shall not execute any contract or become party to any arrangement for the performance of work on the Property except with the General Contractor, if there is one. If there is no General Contractor, Borrower shall only contract with

major subcontractors approved by Funding Lender for the performance of work on the Property.

Section 8.9 Leases. At least monthly, unless waived in writing by the Funding Lender, Borrower shall deliver to Funding Lender a rent roll of all Leases of the Property, whether executed before or after the date hereof, and a certification that identifies all Tenants who qualify as Frail Seniors. For purposes of such certification, a "Frail Senior" is a Tenant who qualifies for programs designated under California Multifamily Housing Program Regulations 7341(a)(5)(A) through (C).

Section 8.10 [Reserved.]

Section 8.11 Foundation Completion. Borrower shall notify Funding Lender immediately upon completion of the foundation of the Improvements.

Section 8.12 Personal Property Installation. Borrower shall not install materials, personal property, equipment, or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any person, firm or corporation to remove or repossess any such material, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at time of installation, without Funding Lender's written consent.

Section 8.13 Insurance. Prior to any Disbursement hereunder, Borrower shall procure and deliver certificates thereof to Funding Lender and at all times thereafter maintain a policy or policies of insurance in form and content and by an insurer or insurers satisfactory to Funding Lender, including a clause giving Funding Lender a minimum of thirty (30) days' notice if such insurance is canceled, meeting the terms of any separate insurance requirements letter executed in connection with the Borrower Loan, or if none, as follows: (i) broad form "all risk" property insurance in an amount not less than the insurable value of the Improvements on a full replacement cost basis, with construction cost increase and building code change coverage, including building risk, fire, extended coverage, vandalism, and malicious mischief, course of construction endorsement and a loss payable endorsement naming Funding Lender as payee, (ii) liability insurance indicating coverage satisfactory to Funding Lender naming Funding Lender as an additional insured, (iii) Workers' Compensation Insurance, and (iv) Flood and/or Earthquake Hazard Insurance, if required by Funding Lender.

Section 8.14 Maintain Records. Borrower shall keep and maintain full and accurate accounts and records of its operations according to generally accepted accounting principles and practices for its type of business.

Section 8.15 Taxes. Borrower shall pay and discharge all lawful claims, including taxes, assessments, and governmental charges or levies imposed upon it or its income or profits or upon any properties belonging to it prior to the date upon which penalties attach thereto; provided that Borrower shall not be required to pay any such tax, assessment, charge, or levy, the payment of which is being contested in good faith and by proper proceedings so long as proceedings for collection thereof have been stayed and the obligation to pay is secured by the posting of a bond or other legally sufficient security.

Section 8.16 Notification of Events of Default. Borrower shall promptly notify Funding Lender in writing of the occurrence of any Event of Default under this Borrower Loan Agreement, or any default under the Borrower Notes, the Trust Deed or the Security Agreements or of any facts then in existence which would become an Event of Default hereunder or a default thereunder upon the giving of notice or the lapse of time or both.

Section 8.17 Payment of Expenses. Borrower shall pay within five (5) days after Funding Lender's demand, all reasonable and necessary expenses incidental to the making and administration of the Borrower Loan including, without limit, preclosing and closing expenses, commitment fees, expenses incurred for architectural and engineering review, construction inspection fees, environmental review fees, attorney's fees and appraiser's fees, regardless of whether any such services are provided by Funding Lender's employees or agents or by independent contractors. Funding Lender's good faith determination that an expense is a reasonable and necessary expense incidental to the making of the Borrower Loan shall constitute a conclusive determination of Borrower's obligation to pay such expense.

Section 8.18 No Conveyance or Encumbrance. Except in connection with the Subordinate Debt and as contemplated by the Subordinate Loan Documents, Borrower covenants and agrees not to sell, convey, transfer, dispose of, grant a lien or security interest in, or otherwise further encumber the Property or the Improvements or any part thereof or any interest therein or enter into a lease covering all or any portion thereof or an undivided interest therein, either voluntarily, involuntarily or otherwise, or enter into an agreement so to do without the prior written consent of Funding Lender being first had and obtained. All easements, declarations of covenants, conditions and restrictions, and private or public dedications affecting the Property shall be submitted to Funding Lender for its approval and such approval shall be obtained prior to the execution or granting of any thereof by Borrower, accompanied by a drawing or survey showing the precise location of each thereof. Notwithstanding the foregoing and provided that Funding Lender is given written notice within five (5) days of any such transfer, none of the following transfers shall be deemed an unpermitted transfer for purpose of this Section (collectively, "Permitted Transfers"): (i) the replacement of the general partnership interest in Borrower in accordance with the terms of the Partnership Agreement by an entity controlling, controlled by, or under common control with Union Bank, N.A. (each, an "Approved Affiliate") or, in the case of any other person or party, such person or party that is approved by Funding Lender, which approval shall not be unreasonably withheld, conditional or delayed, or (ii) prior to the Conversion Date, the transfer of any limited partnership interest of the Borrower to an Approved Affiliate or, on or after the Conversion Date, to another person or party; provided, however, that the transferee of any interest as set forth in (i) or (ii) above shall not (a) be or become subject at any time to any law, regulation, or list of any governmental authority (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits banks from making any advance or extension of credit to the transferee or from otherwise conducting business with the transferee, or (b) fail to provide documentary and other evidence of the transferee's identity as may be requested by any Funding Lender at any time to enable such Funding Lender to verify the transferee's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

Section 8.19 Comply With Government Requirements. Borrower shall promptly comply with any Governmental Requirement or Local Requirement.

Section 8.20 Diligent Construction. Borrower shall cause the construction of the Improvements to be promptly commenced within thirty (30) days after Recordation of the Trust Deed and thereafter prosecuted with diligence and continuity and completed in accordance with the Plans using new materials and workmanship free from fault on or before the Completion Date, free and clear of liens or claims for liens.

Section 8.21 Satisfy Conditions. Borrower shall cause all conditions hereof to be satisfied at the time and in the manner herein provided.

Section 8.22 Application of Disbursements. Borrower shall receive the disbursements to be made hereunder as a trust fund for the purpose of paying the costs of construction of the

Improvements and it will apply the same first to such payment before using any part thereof for any other purpose.

Section 8.23 Approval. Borrower shall obtain and deliver to Funding Lender evidence of the unconditional approval by Local Authority, local Board of Fire Underwriters or its equivalent and by any other applicable Governmental Authority of the Improvements in their entirety for permanent occupancy to the extent any such approval is a condition of the lawful use and occupancy of the Improvements.

Section 8.24 Paid Vouchers. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements, under which Borrower claims title to any materials, fixtures or articles incorporated in the Improvements.

Section 8.25 Preliminary Notices. Upon written request, Borrower shall deliver to Funding Lender copies of all preliminary notices and other matters served on Borrower pursuant to the mechanics lien and stop notice or notice to withhold laws of the State in which the Property is located.

Section 8.26 Defect Corrections. Upon demand of Funding Lender, Borrower shall correct any defect in the Improvements or any departure from the Plans and Specifications not approved by Funding Lender; the advance of any Loan proceeds shall not constitute a waiver of Funding Lender's right to require compliance with this covenant with respect to any such defects or departures from the Plans and Specifications.

Section 8.27 Contract Changes. Borrower shall not, without the prior written consent of Funding Lender, permit any change in the Plans and Specifications, or in any contract which: (a) when added to the cumulative amount of all increases in the contract price resulting from Change Orders heretofore agreed to by Borrower, would result in a change in the contract price or in the cost of construction of the Improvements in excess of the Cumulative Change Order Amount or (b) change the number of buildings comprising the Improvements, or reduce or increase the square footage of any such building by more than one hundred (100) square feet or change the number of such buildings or the number of floors or footprint of any such building.

Section 8.28 Cost Breakdown Changes. Without Funding Lender's prior written consent, Borrower shall not change the Cost Breakdown. With such consent, which may be granted or withheld in Funding Lender's sole discretion, the Cost Breakdown may be changed from time to time; however, Funding Lender shall not be obligated to approve such changes unless Funding Lender shall have received evidence satisfactory to it that (i) the change in such Cost Breakdown is reasonable and necessary, and (ii) in the opinion of Funding Lender, there remains sufficient funds in the undisbursed portion of the Borrower Loan and of unexpended Borrower's Funds allocated in the Disbursement Schedule for the costs of construction of the Improvements to pay for all remaining costs of completion of construction of the Improvements. If Funding Lender determines there is a deficiency of such sums, Funding Lender may require a further deposit of Borrower Funds in the Borrower Funds Account as a condition of approving the change.

Section 8.29 Marketing and Leasing. Subject in all respects to the requirements of the Regulatory Agreement, Borrower shall (a) diligently market the Improvements for lease to qualified Tenants in compliance with all Governmental Requirements for rents consistent with fair market levels, and with rent prepaid for no more than one (1) month in advance; and (b) furnish to Funding Lender a monthly written report on the status of all leasing activities for the Project, and, upon Funding Lender's request, a statement certified by Borrower in a form approved by Funding Lender showing all lease transactions pending, including identity of

proposed tenants, basic economic terms, and any other information requested by Funding Lender.

Section 8.30 Net Operating Income. Borrower shall deliver to Funding Lender, on or before the fifteenth (15th) day of each calendar month, commencing with the first month after any Tenant or other user of all or any part of the Project first commences paying rent or making any other payments to Borrower regardless of whether such payments are characterized as rent, and each and every calendar month thereafter, both of the following:

(a) Following an Event of Default and the request of Funding Lender, a monthly statement of net operating income of the Project for the immediately preceding calendar month, prepared on a cash basis in accordance with accounting standards established by the Financial Accounting Standards Board for real property similar to the Project (and in any case excluding depreciation and other non-cash expenditures); and

(b) payment in immediately available funds of the lesser of (i) accrued interest on the Borrower Loan for the immediately preceding calendar month in accordance with the terms of the Borrower Notes, or (ii) the amount of such net operating income (the "Monthly NOI Installment").

The Monthly NOI Installments paid to Funding Lender hereunder shall be held by Funding Lender and applied to the interest accrued on the Borrower Loan, on a priority basis before application of any remaining interest reserve held by Funding Lender.

Section 8.31 [Reserved.]

Section 8.32 Delivery of Financial Information. After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender, deliver copies of all financial information required under Article XIVA.

Section 8.33 Governmental Lender's and Funding Lender's Fees. Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Governmental Lender Fee) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 8.34 Expenses. Borrower shall pay all reasonable expenses incurred by the Governmental Lender and the Funding Lender in connection with the Borrower Loan and the Funding Loan, including the fees and expenses of the Governmental Lender's and the reasonable fees and expenses of the Funding Lender's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all expenses of the Governmental Lender and all reasonable expenses of the Funding Lender in connection with the issuance or administration of the Borrower Loan and the Funding Loan,

including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender for all amounts, and the Funding Lender for all reasonable amounts, expended, advanced or incurred by the Governmental Lender and the Funding Lender to collect the Borrower Notes, or to enforce the rights of the Governmental Lender and the Funding Lender under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender and the Funding Lender under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be incurred by the Governmental Lender and reasonably incurred by the Funding Lender in connection with any such matters (whether or not litigation is instituted), together with interest at a rate equal to the Default Interest on each such amount from the date of its advance until the date of reimbursement to the Governmental Lender and the Funding Lender, respectively, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 8.34 shall survive the term of this Borrower Loan Agreement and the exercise by the Governmental Lender or the Funding Lender, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party.

Neither the Borrower nor the Governmental Lender shall be responsible for any costs associated with any securitization of the Borrower Loan or the Funding Loan.

Section 8.35 Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender or Funding Lender pursuant hereto, pursuant to the Regulatory Agreement and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Administrator (as defined in the Regulatory Agreement), the Beneficiary Parties, and each of their respective members of the Board of Supervisors, officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except as to the Funding Lender with respect to any Secondary Market Disclosure Document (other than any of Borrower's obligations under Article XIVA);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or

about, or from the planning, design, acquisition, construction, installation or rehabilitation of, the Project or any part thereof;

(c) Any lien or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof, during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) [Reserved];

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or their affiliates to Governmental Lender, the Funding Lender or any other Person in connection with Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) any failure (or alleged failure) by Borrower, the Funding Lender or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction or rehabilitation of, the Project or any part thereof; or

(l) the use of the proceeds of the Borrower Loan and the Funding Loan,

except (i) in the case of the foregoing indemnification of the Funding Lender or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party; or (ii) in the case of the foregoing indemnification of the Governmental Lender or any related Indemnified Party, to the extent such damages are caused by the willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 14A.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article XIVA hereof shall be limited to the indemnity set forth in Section 14A.1.4 hereof.

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

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to the foregoing provisions if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan. The foregoing provisions shall survive the termination of this Borrower Loan Agreement.

Section 8.36 No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 8.37 Right of Access to the Project. The Borrower agrees that the Governmental Lender and the Funding Lender, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation at all reasonable times during business hours and upon reasonable notice, to enter onto the Property (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender and the Funding Lender, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 8.38 Notice of Default. The Borrower will advise the Governmental Lender and the Funding Lender promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 8.39 Covenant With Governmental Lender and Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by the Funding Lender of the Governmental Lender Notes and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are

hereby declared to be for the benefit of the Governmental Lender and the Funding Lender and any lawful owner or pledgee of the Borrower Notes or the Governmental Lender Notes from time to time.

Section 8.40 Obligation of the Borrower to Construct the Project. The Borrower shall proceed with reasonable dispatch to construct and equip the Project. If the proceeds of the Borrower Loan, together with the other Borrower moneys, available to be disbursed to the Borrower are not sufficient to pay the costs of such construction and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender or the Funding Lender in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 8.41 Maintenance of Insurance. Borrower will maintain the insurance required by the Trust Deed.

Section 8.42 Information; Statements and Reports. Borrower shall furnish or cause to be furnished to Funding Lender:

(a) Notice of Default. As soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized Representative of Borrower describing the details of such Event of Default or Potential Default and any curative action Borrower proposes to take;

(b) Financial Statements; Rent Rolls. In the manner and to the extent required under the Trust Deed, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Trust Deed and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(c) [intentionally omitted]

(d) [intentionally omitted]

(e) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(f) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

(h) Compliance Certificates. Together with each of the documents required pursuant to subsection (b) above submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(i) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender reasonably requests from time to time.

Section 8.43 Additional Notices. Borrower will, promptly after becoming aware thereof, give notice to Funding Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against Borrower, General Partner or Guarantor, or any Legal Action which is threatened against Borrower, General Partner or Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of Borrower, General Partner, Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of Borrower under any of the CC&R's together with a copy of each notice of default, alleged default or potential default received from any other party thereto;

(e) any notice of default, alleged default or potential default on the part of Borrower received from any Tenant under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the Tenants have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of Borrower's or General Partner's executive headquarters or principal place of business; (ii) the legal,

trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement.

Section 8.44 Compliance With Other Agreements; Legal Requirements.

(a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, rehabilitation, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the dwelling units in the Project to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the dwelling units in the Project to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender, as applicable, may request and otherwise cooperate with Funding Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

Section 8.45 Completion and Maintenance of Project. Borrower shall cause the construction of the Improvements to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with this Borrower Loan Agreement, free and clear of any liens or claims for liens on or before the Completion Date. Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

Section 8.46 Income From Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents,before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, Borrower shall not make or permit any distributions or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of Funding Lender.

Section 8.47 Leases and Occupancy Agreements.

(a) Lease Approval.

(i) Borrower has submitted to Funding Lender, and Funding Lender has approved, Borrower's standard form of tenant lease for use in the Project. Borrower shall not materially modify that approved lease form without Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without Funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease, and is executed in the form as an exhibit to this Borrower Loan Agreement without material modification;

(B) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to this Borrower Loan Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) Landlord's Obligations. Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) Leasing and Marketing Agreements. Except as may be contemplated in the Management Agreement with the Manager, Borrower shall not without the approval of Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 8.48 Project Agreements and Licenses. To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to Funding Lender.

Section 8.49 Payment of Debt Payments. In addition to its obligations under the Borrower Notes, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of the Borrower Notes or other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Trust Deed (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 8.50 Funds From Equity Investor. Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement, provided that the parties to this Borrower Loan Agreement acknowledge and agree that such Equity Contributions are subject to adjustment in amounts and time of delivery as set forth in the Partnership Agreement.

Section 8.51 Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) General. The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Notes from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Trust Deed and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Notes or affecting the Project. Capitalized terms used in this Section 8.51 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Funding Loan Agreement, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Affect Opinion (other than with respect to interest on any portion of the Governmental Lender Notes for a period during which such portion of the Governmental Lender Notes are held by a "substantial user" of any facility financed with the proceeds of the Funding Loan or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 8.51.

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

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

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

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

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

(v) *Accuracy of Information*. The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower's information statement pursuant to Section 149(e) of the Code is accurate and complete as of the Initial Closing Date.

(vi) *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 the adoption of Resolution No. 2012/196 of the Governmental Lender with respect to the Project on May 8, 2012, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing, reimbursement bond issuance and similar costs incurred prior to the commencement of construction or acquisition of the Project.

(vii) *Qualified Costs*. The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code and that for the greatest number of buildings the proceeds of the Funding Loan shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Funding Loan for the purpose of complying with Section 42(h)(4)(B) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any

person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders or payees of the Funding Loan and the Borrower Notes for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

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

(d) No Arbitrage. The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Notes to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Notes relating to the Funding Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Affect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the latest Maturity Date (as defined in the Funding Loan Agreement), except as permitted by Section 148 of the Code and Treasury Regulations thereunder. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Treasury Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender at all times from and after the Initial Closing Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts prior to the Computation Date, annually not later than forty-five days after the anniversary of the Initial Closing Date and subsequent to the Computation Date, not later than forty-five days after the fifth anniversary of the Initial Closing Date and each five years thereafter and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

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

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

(g) Qualified Residential Rental Project. The Borrower hereby covenants and agrees that the Project will be operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Funding Loan remains outstanding, to the end that the interest on the Governmental Lender Notes shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

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

(i) Funding Loan Not a Hedge Bond. The Borrower covenants and agrees that not more than 50% of the proceeds of the Funding Loan 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 Funding Loan will be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Initial Closing Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate after the Borrower's right to request Disbursements has terminated and the Borrower Loan has been irrevocably paid in full, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

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

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

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 8.51 may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Notes to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Notes 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 Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 8.51, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 8.51; provided, however, that the Funding Lender shall take no action under this Section 8.51 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 8.51.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Governmental Lender Notes in an amount related to the amount of the Borrower Loan.

(n) Compliance with Tax Certificate. The Borrower shall execute, deliver and comply with the provisions of the Tax Certificate. In the event of any conflict as

between the provisions of this Borrower Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

Section 8.52 Payment of Rebate.

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Notes 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 Funding Lender, within 55 days after each Computation Date:

(A) with a copy to the Governmental Lender, a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Treasury Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Treasury Regulations); and

(C) with a copy to the Governmental Lender, 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 8.52 of an amount described in Section 8.52(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Treasury Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Funding Lender (for deposit to the Rebate Fund) and cause the Funding Lender 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 Treasury Regulations, within 175 days after any discovery or notice and (2) deliver to the Funding Lender 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 Treasury Regulations, the Borrower shall take such steps as are necessary to prevent the Funding Loan from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) *Records.* The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 8.52 for at least six years after the later of the final maturity of the Funding Loan or the date the Funding Loan is retired in full.

(iv) *Costs.* The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst, a certified public accountant

and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) *No Diversion of Rebatable Arbitrage.* The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) *Modification of Requirements.* If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 8.52, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion with respect to such action.

(b) Rebate Fund. The Funding Lender shall establish and hold a separate fund designated as the "Rebate Fund." The Funding Lender shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Funding Lender by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(c) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Funding Lender shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(d) All payments to the United States of America pursuant to this Section 8.52 shall be made by the Funding Lender for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Funding Lender by the Borrower or the Rebate Analyst as set forth in this Section 8.52).

(e) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 8.52 and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

(f) Moneys and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

(g) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Notes. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender with respect to such withdrawal.

(h) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 8.52 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of

the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender.

Section 8.53 Covenants Under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

Section 8.54 Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 8.55 Continuing Disclosure Agreement. The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in such agreement

Section 8.56 Replacement Reserve. At or prior to the date of the funding of the Additional Capital Contribution (as defined in the Partnership Agreement), the Borrower shall establish and maintain a segregated replacement reserve with the Funding Lender that shall be available for capital expenditures for repairs and replacement necessary to maintain the Project in safe, decent and habitable condition and other purposes (each a "Permitted Purpose") permitted under the Partnership Agreement (such account and all replacements and substitutions thereof are referred to as the "Replacement Reserve"). The Replacement Reserve shall be subject to the control and first priority security interest of the Funding Lender and shall be used solely for the Permitted Purposes, provided, however, absent the occurrence of an Event of Default, Borrower may make disbursements from the Replacement Reserve without the prior approval of the Funding Lender. The Borrower shall fund the Replacement Reserve (i) in an initial amount of $0.00 as of the date funding of the Additional Capital Contribution, and (ii) thereafter, in an amount equal to no less than $29,400.00 annually, with 1/12 of said amount to be funded monthly. In the event the Equity Investor is not Union Bank, N.A. or an Affiliate (as defined in the Partnership Agreement), the Borrower shall not make any disbursement of proceeds from the Replacement Reserve for expenditures that are in excess of $20,000.00 without the prior approval of the Funding Lender. After the occurrence of an Event of Default, the Funding Lender shall have the right to review and approve disbursements from the Replacement Reserve. Notwithstanding the foregoing, the Funding Lender shall have no duty to inquire into or investigate whether any withdrawal that the Borrower makes from the Replacement Reserve is for a Permitted Purpose and shall have no liability with respect to any withdrawal the Borrower makes from the Replacement Reserve that is not for a Permitted Purpose.

Section 8.57 Additional Reserves. Borrower shall deposit an Operating Deficit Reserve (as defined in the Partnership Agreement) in the amount of not less than $141,526 and a transition reserve of not less than $656,717, in money market deposit accounts, with Funding Lender, subject to the first priority security interest of Funding Lender, with such reserves deposited as follows: (i) $141,526 deposited on or before April 1, 2015 and (ii) $656,717 on or before January 1, 2016, and continuing thereafter for at least 5 years. Notwithstanding the previous sentence, Borrower shall be entitled to withdraw funds from these reserves in accordance with the requirements of the Partnership Agreement and/or the Subordinate Loan Documents between the Borrower and the California Department of Housing and Community Development.

## ARTICLE VIIIA

## NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

Section 8A.1 Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into a management agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the management agreement or otherwise replace the Manager or enter into any other management agreement unless such termination of the management agreement is required pursuant to the Partnership Agreement; (ii) reduce or consent to the reduction of the term of the management agreement; (iii) increase or consent to the increase of the amount of any charges under the management agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the management agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the management agreement (or any successor management agreement) if such default permits the Manager to terminate the management agreement (or such successor management agreement).

Section 8A.2 Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 8A.3 Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction or rehabilitation, as appropriate, of the Project).

Section 8A.4 Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 8A.5 Assets. Purchase or own any real property or personal property incidental thereto other than the Project.

Section 8A.6 Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Trust Deed, nor transfer any material Project Agreements or Licenses required for the operation of the Project.

Section 8A.7 Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, and (iv) trade payables incurred in the ordinary course of business.

Section 8A.8 Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 8A.9 Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender and Governmental Lender.

Section 8A.10 Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect, any of its rights or remedies under the Partnership Agreement; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Trust Deed.

Section 8A.11 No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 8A.12 Loans and Investments; Distributions; Related Party Payments.

(a) Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Affiliate of Borrower or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Affiliate of Borrower or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Trust Deed).

(b) Disbursements for fees and expenses of any Affiliate of Borrower and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the construction or rehabilitation, as the case may be, of the Improvements, as determined by the Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or by the Funding Lender, no Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to the Conversion Date except as permitted by the developer fee schedule approved by the Funding Lender.

Section 8A.13 Amendment of Related Documents or CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the related documents or any of the CC&R's (including, without limitation, those contained in the Borrower Loan Agreement, any architect's agreement or engineer's contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 8A.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 8A.14 Personal Property. Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 8A.14 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 8A.15 Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

## ARTICLE IX

## EVENTS OF DEFAULT

Each of the following shall constitute an "Event of Default" hereunder (including, if Borrower consists of more than one person, the occurrence of any of such events with respect to any one or more of said persons):

Section 9.1 The failure of Borrower to make any payment of principal, interest or other charges under any of the Borrower Notes as and when due.

Section 9.2 The failure of Borrower or any Guarantor to comply with any covenant contained in this Borrower Loan Agreement or any other Borrower Loan Document which calls for the payment of money, if such payment is not received by the Funding Lender within ten (10) days after written notice from the Funding Lender.

Section 9.3 The breach or default of any other covenant, agreement or undertaking of Borrower or Guarantor contained in this Borrower Loan Agreement or any other Borrower Loan Document, and the continuance of such breach for a period of thirty (30) days after written notice thereof to Borrower; provided that, so long as the Borrower has commenced to cure such breach or default within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Borrower is diligently pursuing such cure to the Funding Lender's reasonable satisfaction, then the Borrower shall have an additional period of time as reasonably necessary (such additional period not to exceed forty-five (45) days unless extended in writing by the Funding Lender) within which to cure such default; provided, however, that if a different notice or cure period is specified under any provision of the Borrower Loan Documents, the specific provision shall control; provided, however, that nothing contained herein shall extend the time for payments of principal, interest and charges in accordance with the terms and provisions of the Borrower Notes.

Section 9.4 The condemnation, seizure, or appropriation of (or the occurrence of an uninsured casualty) that materially impairs, as determined by Funding Lender in its discretion, the security interest of Funding Lender in the Property or Improvements.

Section 9.5 The failure of Borrower to make any deposit of Borrower's Funds into the Borrower's Funds Account as and when required by this Borrower Loan Agreement after written demand by the Funding Lender.

Section 9.6 Any Change Order or material deviation of the work of construction from the Plans and Specifications which is not authorized by the Funding Lender if such

authorization is required under the terms of this Borrower Loan Agreement, or the use of defective workmanship or materials in the construction of the Improvements, if such defective workmanship or materials remain in the construction of the Improvements beyond fifteen (15) days after written notice from Funding Lender.

Section 9.7 [Reserved.]

Section 9.8 The cessation (other than a cessation caused by the occurrence of an event which expressly permits delayed completion under this Borrower Loan Agreement) of the work of construction prior to completion of the Improvements for a continuous period of ten (10) business days or more.

Section 9.9 Any person obtains an order or decree in any court of competent jurisdiction enjoining the construction of the Improvements or enjoining or prohibiting Borrower or the Funding Lender or either of them from performing this Borrower Loan Agreement, and such proceedings are not discontinued and such decree is not vacated within twenty (20) days after the granting thereof.

Section 9.10 Borrower neglects, fails or refuses to keep in full force and effect any permit or approval with respect to the construction of the Improvements or the prohibition, stoppage, or delaying (in any manner) of the construction of any of the Improvements in violation of any of the Borrower Loan Documents, including, without limitation, any Governmental Authority's order, directive or decree which has such effect.

Section 9.11 The curtailment in availability to the Property or Improvements of utilities or other public services necessary for the full occupancy and utilization of any of the Improvements.

Section 9.12 Any misappropriation of any of the Borrower's Funds or Borrower Loan proceeds disbursed pursuant to this Borrower Loan Agreement or the use of any Borrower's Funds or Borrower Loan proceeds for any purpose other than payment of costs approved by the Funding Lender pursuant to this Borrower Loan Agreement.

Section 9.13 If any bonded stop notice or notice to withhold in connection with the Borrower Loan is served on the Funding Lender in accordance with the provisions of the law of the state in which the Property is located, unless within ten (10) days of the receipt of such notice the claim set forth therein discharged or, if the amount claimed is disputed in good faith by Borrower or General Contractor, an adequate corporate surety bond or equivalent acceptable to the Funding Lender is filed with the Funding Lender in the manner provided by law and is legally sufficient to release such stop notice or notice to withhold.

Section 9.14 (a) The imposition, voluntary or involuntary, of any lien or encumbrance upon the Property without the Funding Lender's written consent, or (b) the filing of any mechanics lien or similar claim under the mechanics lien laws of the state in which the Property is located, unless an adequate surety bond is provided and such lien is accordingly released in the manner provided by law within twenty (20) days of the filing of such lien or claim.

Section 9.15 Any breach, misrepresentation or other default by Borrower (other than as provided in the preceding Sections 9.1 through 9.14), or by any other Obligor under any of the Borrower Loan Documents, if such failure continues beyond the period of grace, if any, specified therein.

Section 9.16 (a) The insolvency of any Obligor or the failure of any Obligor generally to pay such Obligor's debts as such debts become due; (b) the commencement as to any Obligor

of any voluntary or involuntary proceeding under any laws relating to bankruptcy, insolvency, reorganization, arrangement, debt adjustment or debtor relief, except in case of involuntary proceedings if such proceedings are dismissed within sixty (60) days after the filing thereof; (c) the assignment by any Obligor for the benefit of such Obligor's creditors; (d) the appointment, or commencement of any proceedings for the appointment, of a receiver, trustee, custodian or similar official for all or substantially all of any Obligor's property; (e) the commencement of any proceeding for the dissolution or liquidation of any Obligor; or (f) the termination of existence or death of any Obligor.

Section 9.17 The revocation of any guaranty or subordination agreement given in connection with the Borrower Notes; and, in the case of the revocation of a guaranty, the failure by the Borrower to provide a replacement guaranty that is acceptable to the Funding Lender within thirty (30) days of the revocation.

Section 9.18 The issuance against any Obligor, or the property of any Obligor, of any writ of attachment, execution, or other judicial lien which is not discharged within twenty (20) days.

Section 9.19 The deterioration of the financial condition of any Obligor which results in Funding Lender deeming itself, in good faith, insecure and such condition continues for a period of thirty (30) consecutive days after written notice from Funding Lender.

Section 9.20 [Reserved.]

Section 9.21 Borrower's failure to comply with Section 3110.5 of the California Civil Code.

Section 9.22 Failure by the Borrower to Substantially Complete the construction of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date;

Section 9.23 Failure by Borrower to complete the construction or rehabilitation, as the case may be, of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date; and

Section 9.24 Failure by Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date, or, if applicable, the Extended Outside Conversion Date.

## ARTICLE X

## REMEDIES

If any of the Events of Default set forth in Article IX occur, then Funding Lender, in addition to its other rights hereunder, may at its option, without prior demand or notice may do any or all of the following:

Section 10.1 Terminate the obligation of Funding Lender to make Disbursements hereunder.

Section 10.2 Declare the principal of and all accrued and unpaid interest on Borrower Notes to be immediately due and payable.

Section 10.3 Notwithstanding the exercise of either one or both of the remedies described in Sections 10.1 and 10.2 hereof, the Funding Lender may make any Disbursements

after the happening of any one or more of said Events of Default without thereby waiving its right to demand payment of the Borrower Notes and without liability to make any other or further Disbursements.

Section 10.4 Proceed as authorized by law to satisfy the indebtedness of Borrower to the Funding Lender and, in that regard, Funding Lender shall be entitled to all of the rights, privileges and benefits contained in the Trust Deed and Security Agreements or other Borrower Loan Documents.

Section 10.5 Take possession of the Property and perform any and all work and labor necessary to complete the Improvements substantially in accordance with the Plans and Specifications in which event expenditures therefor shall be deemed an additional loan to Borrower, payable on demand, bearing interest at the Default Interest rate and secured by the Trust Deed and other Security Agreements.

Section 10.6 Take possession of all funds and deposits of Borrower on hand or deposited in any account at Funding Lender or any branch at Funding Lender and apply said funds in such order at priority as Funding Lender may elect in connection with the obligations of Borrower, hereunder, under the Borrower Notes, the Trust Deed and the other Borrower Loan Documents.

Section 10.7 Continue in the ordinary course of business, the leasing of the Project and otherwise to do any or all acts concerning the Property, the Project or the Improvements that Borrower might do in its own behalf in the ordinary course of owning, operating, maintaining and marketing the Project as a going concern.

Section 10.8 [Reserved.]

Section 10.9 Exercise any and all other remedies that may be available to Lender under the Borrower Loan Documents or applicable law.

WHETHER OR NOT THE FUNDING LENDER ELECTS TO EMPLOY ANY OR ALL OF THE REMEDIES AVAILABLE TO IT IN THE EVENT OF DEFAULT, THE FUNDING LENDER SHALL NOT BE LIABLE FOR THE CONSTRUCTION OF OR FAILURE TO CONSTRUCT OR COMPLETE OR PROTECT THE IMPROVEMENTS OR FOR PAYMENT OF ANY EXPENSE INCURRED IN CONNECTION WITH THE EXERCISE OF ANY REMEDY AVAILABLE TO THE FUNDING LENDER OR FOR THE CONSTRUCTION OR COMPLETION OF THE IMPROVEMENTS OR FOR THE PERFORMANCE OR NON-PERFORMANCE OF ANY OTHER OBLIGATION OF BORROWER.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

## ARTICLE XI

## POWER OF ATTORNEY

In the event of an Event of Default as defined in Article IX hereof, Borrower hereby constitutes and appoints the Funding Lender its true and lawful attorney in fact with the power and authority, including full power of substitution, as follows:

Section 11.1 To take possession of the Property and complete the Improvements.

Section 11.2 To use any of Borrower's Funds and any funds which may remain undisbursed under the Borrower Loan for the purpose of completing the Improvements and for other costs related thereto.

Section 11.3 To make such additions and changes and corrections in the Plans and Specifications as may be necessary or desirable as Funding Lender in its sole discretion deems proper to complete the Improvements.

Section 11.4 To employ such contractors, subcontractors and agents, architects and inspectors as are required to complete the Improvements.

Section 11.5 To employ guards to protect the Property and Improvements from injury.

Section 11.6 To pay, settle or compromise all existing bills and claims against Borrower's Funds or any funds which may remain undisbursed under the Borrower Loan or as may be necessary or desirable, as the Funding Lender in its sole discretion deems proper, for the completion of the Improvements or for protection or clearance of title to the Property and Personal Property or for the protection of the Funding Lender's interest with respect thereto.

Section 11.7 To prosecute and defend all actions and proceedings in connection with the construction of the Improvements.

Section 11.8 As the Funding Lender in its sole discretion deems proper, to execute, acknowledge, and deliver all instruments and documents in the name of Borrower which may be necessary or desirable to do and to do any and every act with respect to the construction and leasing of the Improvements which Borrower might do on his own behalf.

This Power of Attorney is a power coupled with an interest and cannot be revoked and any costs or expenses incurred by the Funding Lender in connection with any acts by the Funding Lender under or pursuant to this Article XI shall be at the cost and expense of Borrower, repayable on demand by Borrower to the Funding Lender with interest thereon at the Default Interest rate, with any such advances made or costs or expenses incurred by the Funding Lender to be secured by the Trust Deed and the Security Agreements.

## ARTICLE XII

## SECURITY INTEREST

Section 12.1 Security Interest. Borrower does hereby give and grant to the Funding Lender a security interest in all funds and deposits of Borrower on deposit at Funding Lender or any branch of the Funding Lender, as additional security for the obligations of Borrower contained in the Borrower Notes, Trust Deed or the Security Agreements.

## ARTICLE XIII

## FINANCIAL STATEMENTS

Section 13.1 Financial Statements. Borrower shall and Borrower shall cause each Guarantor to provide the Funding Lender an income statement, balance sheet, and statement of retained earnings with supporting schedules ("Financial Statements"), as follows:

(a) Following an Event of Default and the request of Funding Lender, within forty-five (45) days after the close of each quarter, except for the final quarter of each year, Borrower's Financial Statement as of the close of such period;

(b) commencing December 31, 2015, within one hundred fifty (150) days after the close of each following fiscal year, a copy of Borrower's annual audited Financial Statement;

(c) Within two hundred seventy (270) days after the close of each fiscal year, a copy of each Guarantor's annual audited Financial Statement;

(d) Within thirty (30) days after receipt by Borrower of a written request of Funding Lender, the Financial Statement of all affiliates and subsidiaries of Borrower and each Guarantor;

(e) [intentionally omitted]

(f) Within one hundred fifty (150) days after the close of the operating year for the Property, annual operating statement with all income and expenses of the Property and a current rent roll, and if retail property, a schedule of gross sales ("Operating Statements"); and

(g) Promptly, upon request, provide any other financial information requested by Funding Lender and permit Funding Lender at any reasonable time to inspect, audit, and examine the books and records of Borrower and each Obligor, inclusive of each Guarantor, and make copies thereof.

## ARTICLE XIV

## SIGNS AND CONSENT TO USE BORROWER INFORMATION ON OTHER ADVERTISING

Section 14.1 Signs and Consent to Use Borrower Information on Other Advertising. Borrower hereby grants the Funding Lender the right, during the construction period for the Project, to erect or cause to be erected Funding Lender's sign or signs in size and location desired by the Funding Lender on the Property so long as such sign or signs do not interfere with the reasonable construction of the Improvements. Borrower will and will cause General Contractor and other contractors and subcontractors to exercise due care to protect said sign or signs from damage. Subject to the consent of Resources for Community Development, the Borrower also hereby grants to the Funding Lender permission to use Borrower's name and/or logo and financial details concerning this transaction, including the size of the transaction and the identities of other lenders involved in this transaction, in one or more tombstone advertisements to be placed in various types of advertising, including without limitation the internet, the financial press, and on posters to be created by the Funding Lender for display in the Funding Lender's offices. Borrower may rescind the permission granted herein upon reasonable prior written notice to the Funding Lender.

## ARTICLE XIVA

## SPECIAL PROVISIONS

Section 14A.1 Sale of Notes and Secondary Market Transaction.

Section 14A.1.1 Cooperation. Subject to the restrictions of Section 2.4(b) of the Funding Loan Agreement, at the Funding Lender's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use

reasonable efforts to satisfy the market standards to which the Funding Lender customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender in connection with one or more sales or assignments of all or a portion of the Funding Loan and/or Borrower Loan or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Funding Loan and/or Borrower Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that the Borrower shall not incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 14A.1.2 Use of Information. The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 14A.1.1(c) hereof, with the Funding Lender in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all

material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

Section 14A.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document.

Section 14A.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender and the underwriter group for any securities (the "Underwriter Group") for any Liabilities to which Funding Lender or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 14A.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 14A.1.3 and 14A.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 14A.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 14A.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 14A.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 14A.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

## ARTICLE XV

## GENERAL CONDITIONS

Section 15.1 No Waiver. No delay or omission of Funding Lender in exercising any right or power arising from any default by Borrower shall be construed as a waiver of such default or as an acquiescence therein, nor shall any single or partial exercise thereof preclude any further exercise thereof. The Funding Lender may, at its option, waive any of the conditions herein and any such waiver shall not be deemed a waiver of Funding Lender's rights hereunder but shall be deemed to have been made in pursuance of this Borrower Loan Agreement and not in modification thereof. No waiver of any Event of Default shall be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent Event of Default.

Section 15.2 No Third Party Benefits. This Borrower Loan Agreement is made for the sole benefit of Borrower, Governmental Lender and Funding Lender, their successors and assigns and no other person or persons shall have any rights or remedies under or by reason of this Borrower Loan Agreement nor shall the Governmental Lender or Funding Lender owe any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of the Improvements, to apply any undisbursed portion of the Borrower Loan to the payment of any such claim or to exercise any right or power of the Governmental Lender or Funding Lender hereunder or arising from any default by Borrower.

Section 15.3 Notice. All notices, demand or other communication required or allowed to be given hereunder to either party shall be given in writing (at the address set forth below their respective signatures, below) by any of the following means: (a) personal service; (b) electronic communication; (c) overnight courier; or (d) registered or certified, first class mail, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Any notice, demand or request sent pursuant to either subsection (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to subsection (c) shall be deemed received on the business day immediately following deposit with the overnight courier and, if sent pursuant to subsection (d) shall be deemed received forty-eight (48) hours following deposit into the mail. It is understood and agreed that each of the parties will use reasonable efforts to send copies of any notices marked "With a copy to"; provided, however, that failure to deliver such copy or copies shall have no consequences whatsoever to the effectiveness of any notice made to the other party.

Section 15.4 Death or Dissolution of Partner. If Borrower, Guarantor or any Completion Guarantor is a natural person or is organized as a partnership or joint venture, upon the death (with respect to a natural person) or dissolution (with respect to a legal entity) of any of the individuals, general partners or joint venturers comprising Borrower, Guarantor or Completion Guarantor prior to the completion of the Improvements or prior to the disbursement of the balance of Borrower Loan proceeds, the Funding Lender may cease disbursements hereunder (unless, solely in the case of a legal entity, the organizational documents provide for and the entity in fact does continue after such death or dissolution).

Section 15.5 Indemnity. Borrower agrees to indemnify, defend the Funding Lender against, and hold the Funding Lender harmless from, any and all losses, damages (whether general or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including attorney's fees) which Funding Lender may suffer or incur as a direct or indirect consequence of: (i) the Funding Lender's performance of this Borrower Loan Agreement or any of the Borrower Loan Documents, including, without limitation, the Funding Lender's exercise or failure to exercise any rights, remedies or powers in connection with this Borrower Loan Agreement or any of the Borrower Loan Documents; (ii) Borrower's failure to perform any of Borrower's obligations as and when required by this Borrower Loan Agreement or any of the Borrower Loan Documents, including, without limitation, any failure, at any time, of any representation or warranty of Borrower to be true and correct and any failure by Borrower to satisfy any condition; (iii) any claim or cause of action of any kind by any person or entity to the effect that the Funding Lender is in any way responsible or liable for any act or omission by Borrower, whether on account of any theory of derivative liability or otherwise; (iv) any act or omission by Borrower, any contractor, subcontractor or material supplier, engineer, architect or other person or entity, except the Funding Lender, with respect to any of the Property or Improvements; (v) any claim or cause of action of any kind by any person or entity which would have the effect of denying the Funding Lender the full benefit or protection of any provision of this Borrower Loan Agreement or the Borrower Loan Documents; or (vi) any act or omission by Borrower or any other party with respect to the Property or the Improvements or otherwise arising out of or relating to the Property or Improvements in any manner. The Funding Lender's rights of indemnity shall not be directly or indirectly limited, prejudiced, impaired or eliminated in any way by any finding or allegation that the Funding Lender's conduct is active, passive or subject to any other classification or that the Funding Lender is directly or indirectly responsible under any theory of any kind, character or nature for any act or omission by Borrower or any other person or entity, except the Funding Lender. Notwithstanding the foregoing, Borrower shall not be obligated to indemnify the Funding Lender with respect to any willful misconduct or act of gross negligence which the Funding Lender is personally determined by the judgment of a court of competent jurisdiction (sustained on appeal, if any) to have committed. Borrower shall pay any indebtedness arising under said indemnity to the Funding Lender immediately upon demand by the Funding Lender together with interest thereon from the date such indebtedness arises until paid at the greatest effective rate of interest specified in the Borrower Notes and which is applicable on or after the maturity or acceleration of the Borrower Notes. Borrower's duty to indemnify the Funding Lender shall survive the release and cancellation of the Borrower Notes and the release and reconveyance or partial release and reconveyance of the Trust Deed.

Section 15.6 Further Assurances; Authorization. Borrower shall, upon the request of the Funding Lender, at Borrower's expense, execute, acknowledge and deliver such further instruments (including, without limit, a declaration of no offset) and perform such other acts as may be necessary, desirable or proper (as determined by the Funding Lender) to carry out the purposes of the Borrower Loan Documents or to perfect and preserve the lien or charge of the Borrower Loan Documents.

Section 15.7 Form of Documents. The form and substance of all documents, instruments, papers and forms of evidence to be delivered to the Funding Lender under the terms of any of the Borrower Loan Documents shall be subject to the approval of the Funding Lender. No document or instrument delivered to the Funding Lender or to be delivered to the Funding Lender, or which is subject to the approval of the Funding Lender under the terms of any of the Borrower Loan Documents, shall be amended, modified, superseded or terminated in any respect whatsoever without the Funding Lender's prior written approval.

Section 15.8 Time Is of the Essence. Time is hereby declared to be of the essence of this Borrower Loan Agreement and of every part hereof.

Section 15.9 Supplement to Security Agreements. The provisions of this Borrower Loan Agreement are not intended to supersede the provisions of the Trust Deed or the Security Agreements but shall be construed as supplemental thereto.

Section 15.10 Joint and Several Obligations. If Borrower consists of more than one person acting in their individual capacities or as general partners in a partnership (excluding, however, any limited partner or member of a limited liability company except insofar as such person may execute an express guaranty or other agreement to be liable), the obligations of Borrower shall be the joint and several obligations of all such persons, and any married person who executes this Borrower Loan Agreement agrees that recourse may be had against his or her separate property for satisfaction of his or her obligations hereunder. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa.

Section 15.11 Authority to File Notices. Borrower hereby appoints and authorizes the Funding Lender, as its agent (but without any obligation on the part of the Funding Lender to do so), to record any notices of completion, cessation of labor and other notices that the Funding Lender deems necessary to record to protect any interest of the Funding Lender under the provisions of this Borrower Loan Agreement, the Borrower Notes, the Trust Deed or any of the Security Agreements. This agency is a power coupled with an interest and is not revocable.

Section 15.12 Actions. The Funding Lender shall have the right to commence, appear in or defend any action or proceeding purporting to affect the Property, Improvements, Borrower Loan Documents or the rights, duties or liabilities of Borrower or the Funding Lender under any of the Borrower Loan Documents. In exercising such right, the Funding Lender may incur and pay costs and expenses including, without limit, attorneys' fees and court costs. Borrower agrees to pay to the Funding Lender upon demand all such expenses incurred or paid by the Funding Lender together with interest, at the greatest effective rate of interest specified in the Borrower Notes, from the date such expenses were incurred or paid by the Funding Lender. Until repaid, such amounts shall have the security afforded disbursements under the Borrower Notes.

Section 15.13 Nonliability of the Funding Lender or Governmental Lender. The relationship of Borrower, and the Funding Lender and the Governmental Lender, under the Borrower Loan Documents is, and shall at all times remain, solely that of the Funding Lender, Governmental Lender and Borrower, and neither the Governmental Lender nor the Funding Lender undertakes or assumes any responsibility or duty to Borrower or to any third party with respect to the Property, Improvements, or Borrower Loan, except as expressly provided in the Borrower Loan Documents. Neither the Governmental Lender nor the Funding Lender shall be liable in any way for any failure to perform or delay in performing the whole or any part of the Borrower Loan Documents by the Governmental Lender or the Funding Lender and the Funding Lender and the Governmental Lender may suspend or terminate all or any portion of the Funding Lender's or the Governmental Lender's, respectively, obligations under the

Borrower Loan Documents if such delay or failure by the Funding Lender results directly or indirectly from, or such suspension or termination by the Funding Lender is based upon, the action or inaction, or purported action, of any governmental or local authority, or any war (whether declared or not), rebellion, insurrection, strike, lock-out, boycott or blockade (whether presently in effect, announced or in the sole judgment of the Funding Lender deemed probable) or any act of God, or any other cause or event beyond the control of the Funding Lender.

Section 15.14 Attorney's Fees. If any legal action or proceeding is brought by either Borrower, the Governmental Lender or the Funding Lender to enforce a provision of the Borrower Loan Documents, the unsuccessful party in such action or proceeding, whether or not such action or proceeding is settled or prosecuted to final judgment, shall pay all of the attorney's fees and costs incurred by the prevailing party in the action, including but not limited to any attorneys' fees incurred as a result of an appeal of the action. If Borrower shall become subject to any case or proceeding under the bankruptcy and reorganization laws of the United State, as amended or recodified from time to time, Borrower shall pay to the Governmental Lender and the Funding Lender on demand all attorneys' fees, costs and expenses which the Governmental Lender and the Funding Lender, respectively, may incur to obtain relief from any legal provision which delays or otherwise impairs the Governmental Lender's or the Funding Lender's, respectively, exercise of any right or remedy under any of the Borrower Loan Documents or for Funding Lender to obtain adequate protection for any of Funding Lender's rights or collateral.

Section 15.15 Assignment. Borrower shall not assign any of the Borrower Loan Documents or any of Borrower's interest in any monies due or to become due under any of the Borrower Loan Documents or convey or encumber any of the Property, Improvements, or any personal property, goods, or fixtures now or hereafter located at the Property or the Improvements without the prior written consent of the Funding Lender. Any such assignment made without such consent shall be void. Borrower recognizes that this is not an ordinary loan and that the Funding Lender would not make the Funding Loan except in reliance on Borrower's expertise, reputation and the Funding Lender's knowledge of Borrower, and that this Borrower Loan Agreement is more in the nature of a personal service contract than a standard loan where the Funding Lender would rely on security which already exists. In this instance the Improvements are not constructed and the Funding Lender is relying heavily on Borrower's expertise and prior experience to develop the Improvements in accordance with the terms of the Borrower Loan Documents.

Section 15.16 Sale of Participations. The Funding Lender shall have the right to sell participation interests in the Borrower Loan or to assign and transfer the Borrower Loan and/or the Funding Loan to any other persons or entities subject to the provisions of Section 2.4(b) of the Funding Loan Agreement, without the consent of or notice to Borrower. The Funding Lender may disclose to any participants or assignees or prospective participants or assignees any information or other data or material in the Funding Lender's possession relating to Borrower, any Guarantor, the Borrower Loan, the Property, the Project, and/or the Improvements, including the construction thereof, without the consent of or notice to Borrower. In the event the Funding Lender shall participate or assign all or any part of the Borrower Loan or the Funding Loan, the designation "Funding Lender" herein shall include all participants and assigns. Unless written notice to Borrower to the contrary is given by the original Funding Lender, Borrower shall deal and communicate solely with, and rely solely upon communications from, the original Funding Lender, and Borrower shall not be entitled to rely upon and shall not accept any notice or other communication concerning the Borrower Loan from any such participant or assignee. Upon an entire assignment by the Funding Lender to one or more assignees, the Funding Lender shall be relieved of any further obligations or liabilities hereunder and Borrower shall look solely to such assignee(s) for performance of the Funding Lender's duties hereunder.

Section 15.17 Rules for Construction. A reference to any of the Borrower Loan Documents shall include all or any of the provisions of the Borrower Loan Documents. A reference to the Property or Improvements shall be a reference to all or any parts of the Property or Improvements. A reference to the Funding Lender shall include the Funding Lender's agents.

Section 15.18 Severability. If any provision of the Borrower Loan Documents shall for any reason be determined by a court of competent jurisdiction, and sustained on appeal, if any, to be unenforceable by the Funding Lender in any respect, such unenforceability shall not affect any other provisions thereof, and the Borrower Loan Documents shall be construed as if such unenforceable provision had not been contained therein; provided, if any provision of the Borrower Loan Documents shall be unenforceable by reason of a final judgment of a court of competent jurisdiction based upon such court's ruling, and sustained on appeal, if any, that said provision is unenforceable because of the unenforceable degree of magnitude of the obligation imposed thereby, said unenforceable degree of magnitude of the obligation shall be reduced in magnitude or degree by the minimum amount necessary in order to provide the maximum degree or magnitude of rights which are enforceable by the Funding Lender, and the Borrower Loan Documents shall be automatically and retroactively amended accordingly to contain such maximum or magnitude of said obligation which is enforceable by the Funding Lender, rather than the more burdensome but unenforceable original obligation. As used herein, "unenforceable" is used in the broadest and most comprehensive sense and includes the concepts of void and voidable.

Section 15.19 Tax Shelter Disclaimers and Waivers. Neither Borrower, any Guarantor, any other Obligor, nor any subsidiary of any of the foregoing intends to treat the Borrower Loan or the transactions contemplated by this Borrower Loan Agreement and the other Borrower Loan Documents as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). If Borrower or any other Obligor determines to take any action inconsistent with such intention, Borrower will promptly notify Funding Lender thereof. If Borrower so notifies the Funding Lender, Borrower acknowledges that the Funding Lender may treat the Borrower Loan as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and in such event the Funding Lender will maintain the lists and other records, including the identity of the applicable party to the Borrower Loan as required by such Treasury Regulation. Notwithstanding anything to the contrary set forth herein or in any other written or oral understanding or agreement to which the parties hereto are parties or by which they are bound, the parties hereto acknowledge and agree that (a) any obligations of confidentiality contained herein and therein do not apply and have not applied from the commencement of discussions between the parties to the tax treatment and tax structure of the transactions contemplated by the Borrower Loan Documents (and any related transactions or arrangements), and (b) each party (and each of its employees, representatives, or other agents) may disclose to any and all parties as required, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by the Borrower Loan Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment and tax structure, all within the meaning of Treasury Regulations Section 1.6011-4; provided, however, that each party recognizes that the privilege each has to maintain, in its sole discretion, with regard to the confidentiality of a communication relating to the transactions contemplated by the Borrower Loan Documents, including a confidential communication with its attorney or a confidential communication with a federally authorized tax practitioner under Section 7525 of the Internal Revenue Code, is not intended to be affected by the foregoing.

Section 15.20 Heirs, Successors and Assigns. The terms of this Borrower Loan Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns

of the parties; provided however, that this Section shall not be deemed a waiver of the provisions contained in Section 15.15 or, in any other restriction on transfer or assignment with respect to interests in the Borrower Loan, the Property or the Borrower contained in any of the Borrower Loan Documents.

Section 15.21 Headings. All headings appearing in this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 15.22 Interpretation. This Borrower Loan Agreement and the Borrower Loan Documents shall be governed by, and construed in accordance with, the laws of the State, except to the extent preempted by federal law. In any action brought or arising out of this Borrower Loan Agreement or the Borrower Loan Documents, Borrower and the general partners and joint venturers of Borrower hereby consent to the jurisdiction of any Federal or State Court within the State and also consent to the service of process by any means authorized by the laws of the State or by federal law.

Section 15.23 WAIVER OF JURY TRIAL. THE BORROWER, THE GOVERNMENTAL LENDER AND THE FUNDING LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, AND THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, EACH PARTY, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION RELATED TO THIS BORROWER LOAN AGREEMENT OR ANY OTHER DOCUMENT, INSTRUMENT OR TRANSACTION BETWEEN THE PARTIES.

Section 15.24 Judicial Reference Provision. In the event the above Jury Trial Waiver is unenforceable, the parties elect to proceed under this Judicial Reference Provision. With the exception of the items specified below, any controversy, dispute or claim between the parties relating to this Borrower Loan Agreement or any other document, instrument or transaction between the parties (each, a "Claim"), will be resolved by a reference proceeding in the State pursuant to Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to reference. Venue for the reference will be the Superior Court in the County where real property involved in the action, if any, is located, or in a County where venue is otherwise appropriate under law (the "Court"). The following matters shall not be subject to reference: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including without limitation set-off), (iii) appointment of a receiver, and (iv) temporary, provisional or ancillary remedies (including without limitation writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). The exercise of, or opposition to, any of the above does not waive the right to a reference hereunder.

The referee shall be selected by agreement of the parties. If the parties do not agree, upon request of any party a referee shall be selected by the Presiding Judge of the Court. The referee shall determine all issues in accordance with existing case law and statutory law of the State, including without limitation the rules of evidence applicable to proceedings at law. The referee is empowered to enter equitable and legal relief, and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision, and pursuant to CCP §644 the referee's decision shall be entered by the Court as a judgment or order in the same manner as if tried by the Court. The final judgment or order from any decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial if granted, will be a reference hereunder.

AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, EACH PARTY AGREES THAT ALL CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT A JURY.

Section 15.25 Integration. This Borrower Loan Agreement contains or expressly incorporates by reference the entire and exclusive agreement of the parties with respect to the matters contemplated herein and supersedes all prior negotiations related thereto, and this Borrower Loan Agreement shall not be amended or modified in any way except by a written instrument which is executed by all parties hereto. Borrower acknowledges and represents that the Borrower Loan Documents and any documents or instruments referenced therein are the only agreements of the parties with respect to the subject matter of the Borrower Loan and that the Funding Lender has made no other agreement or representation to Borrower, whether oral or written.

Section 15.26 Funding Lender Consents. With respect to any matter requiring the Funding Lender's consent hereunder, Borrower shall direct written request for such consent to the Funding Lender pursuant to Section 15.3 above, including such information as Borrower may deed pertinent to the Funding Lender's decision. From time-to-time, the Funding Lender may designate a specific individual to whom such requests shall be directed. No failure of the Funding Lender to respond to a request shall be deemed a consent to the request. No response by the Funding Lender shall be effective as a consent unless the same is in writing executed by a duly authorized officer of the Funding Lender.

Section 15.27 Counterparts. This Borrower Loan Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same instrument.

Section 15.28 Recitals. The Recitals contained herein are true and correct and are incorporated into this Borrower Loan Agreement.

Section 15.29 California Waiver of Civil Code Section 2822. Borrower hereby waives any right under California Civil Code Section 2822 or any successor sections to designate the portion of the obligations under the Borrower Loan Documents that are to be satisfied by any payment or other satisfaction by Borrower. Any such payment or other satisfaction shall not affect in any manner the obligations of Guarantor under the Guaranty.

Section 15.30 Survival. The representations, warranties and covenants herein shall survive the disbursement of the Borrower Loan and shall remain in force and effect until the Borrower Loan is paid in full.

## ARTICLE XVI

## SPECIAL CONDITIONS

Section 16.1 Special Conditions. The special conditions of the Borrower Loan, if any, are set forth in EXHIBIT F attached hereto and made a part hereof.

## ARTICLE XVII

## LIMITATIONS ON LIABILITY

Section 17.1 Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Notes.

Section 17.2 Limitation on Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from moneys and assets received by the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement. No owner or owners of any of the Governmental Lender Notes shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision thereof or of the Governmental Lender for the payment of the Governmental Lender Notes or the Funding Loan, nor to enforce the payment of the Governmental Lender Notes or the Funding Loan against any property of the State or any such political subdivision thereof or of the Governmental Lender except as provided in the Funding Loan Agreement.

It is recognized that notwithstanding any other provision of this Borrower Loan Agreement, and except for the Pledged Revenues, the Trust Deed and certain funds pledged under the Funding Loan Agreement, none of the Borrower, the Funding Lender, the owners of the Governmental Lender Notes or the Servicer shall look to the Governmental Lender for damages suffered by the Borrower, the Funding Lender, the owners of the Governmental Lender Notes or the Servicer as a result of the Governmental Lender's performance, failure to perform or insufficient performance of any covenant, undertaking or obligation under this Borrower Loan Agreement or any of the other Funding Loan Documents or the Borrower Loan Documents, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, nor for any other reason, unless such damages result solely from the gross negligence, willful misconduct, fraud or intentional misrepresentation of the Governmental Lender. Although this Borrower Loan Agreement recognizes that such documents shall not give rise to any pecuniary liability of the Governmental Lender, nothing contained in this Borrower Loan Agreement shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Governmental Lender) in any court or before any governmental body, agency or instrumentality or otherwise against the Governmental Lender or any of its officers or employees to enforce the provisions of any of such documents which the Governmental Lender is obligated to perform and which the Governmental Lender has not assigned to the Funding Lender or any other person.

The Governmental Lender shall be entitled to the advice of counsel, and the Governmental Lender shall be wholly protected as to action taken or omitted in good faith in reliance on such advice. The Governmental Lender shall not be liable for any action (a) taken by it in good faith and reasonably believed by it to be within its discretion or powers hereunder, or (b) in good faith omitted to be taken by it because such action was reasonably believed to be beyond its discretion or powers hereunder, or (c) taken by it pursuant to any direction or instruction by which it is governed hereunder, or (d) omitted to be taken by it by reason of the lack of any direction or instruction required hereby for such action; nor shall it be responsible for the consequences of any error of judgment reasonably made by it. The Governmental Lender shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person or entity, except for the gross negligence or willful misconduct of its own agents, officers and employees. When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof. The Governmental Lender shall not be required to take any

remedial action (other than the giving of notice) unless indemnity in a form acceptable to the Governmental Lender is furnished for any cost or liability to be incurred in connection with such remedial action, other than liability for failure to meet the standards set forth in this Section. The Governmental Lender shall be entitled to reimbursement for its costs reasonably incurred or advances reasonably made, with interest at the rate of 10% per annum, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act which it may have shall be construed as a requirement to act; and no delay in the exercise of a right or power shall affect its subsequent exercise of the right or power.

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

Section 17.3 Waiver of Personal Liability. No member of the Board of Supervisors, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member of the Board of Supervisors, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 17.4 Limitation on Liability of Governmental Lender's and Funding Lender's Officers, Employees, Etc.

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective members of the Board of Supervisors, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender, or gross negligence of the Governmental Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective members of the Board of Supervisors, officers, directors, employees

and agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), members of the Board of Supervisors, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 17.5 Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

Section 17.6 No Limitations on Actions of Governmental Lender in Exercise of its Governmental Powers. Nothing in this Borrower Loan Agreement or the Funding Loan Agreement is intended, nor shall it be construed, to in any way limit the actions of the Governmental Lender in the exercise of its governmental powers, as contrasted with any contractual rights or powers. It is the express intention of the parties hereto that the Governmental Lender shall retain the full right and ability to exercise its governmental powers with respect to the Borrower, the Project and the transactions contemplated by this Borrower Loan Agreement and the other Borrower Loan Documents to the same extent as if it were not a party to this Borrower Loan Agreement, and in no event shall the Governmental Lender have any liability in contract arising under this Borrower Loan Agreement, the other Borrower Loan Documents or the Funding Loan Documents by virtue of any exercise of its governmental powers.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Borrower Loan Agreement or caused this Borrower Loan Agreement to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

BORROWER:

BERRELLESA PALMS, L.P.,
a California limited partnership

By: 112 Alves Lane, Inc.
a California nonprofit public benefit corporation, its general partner

By: _____
Daniel Sawislak,
Executive Director

Address:
Berrellesa Palms, L.P.
c/o Resources for Community Development
2220 Oxford Street
Berkeley, CA 94704
Attention: Executive Director
Fax No. (510) 548-3502

With a copy to:
Gubb & Barshay LLP
50 California Street, Suite 3155
San Francisco, CA 94111
Attention: Scott Barshay, Esq.
Fax No. (415) 781-6967

And a copy to:
Union Bank, N.A.
200 Pringle Avenue, Suite 355
Walnut Creek, CA 94596
Attention: CFD Division Head
Fax No. (925) 947-2455

And a copy to:
Paul Hastings LLP
515 South Flower Street,
Twenty-Fifth Floor
Los Angeles, CA 90071
Attention: Kenneth Krug, Esq.
Fax No. (213) 996-3230

[signature page to Borrower Loan Agreement – Berrellesa Palms]

GOVERNMENTAL LENDER:

COUNTY OF CONTRA COSTA, CALIFORNIA

By: _____

Catherine Kutsuris,
Director, Department of
Conservation & Development

Address:
County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attention: Community Development Bond
Program Manager
Fax: (925) 674-7258

[signature page to Borrower Loan Agreement – Berrellesa Palms]

Agreed to and Acknowledged by:

FUNDING LENDER:

BANK OF THE WEST, a California banking Corporation

By: _____
John Denton,
Vice President

Address:
Real Estate Industries Division
NC-B07-3E-I
2527 Camino Ramon
San Ramon, California 94583
Fax No. (323) 837-3866

With a copy to:

Tomasi Salyer Baroway
121 SW Morrison Street, Suite 450
Portland, Oregon 97204
Attention: Valerie Athena Tomasi, Esq.
Facsimile: (971) 544-7236

[signature page to Borrower Loan Agreement – Berrellesa Palms]

GENERAL CONTRACTOR

The undersigned General Contractor hereby represents and warrants it has approved the Plans and Specifications referenced in EXHIBIT C, makes the covenants set forth in Sections 8.5, 8.6 and 8.7 hereof and agrees that the Disbursement Schedule shall control notwithstanding the provisions of the General Contract.

GENERAL CONTRACTOR:

SEGUE CONSTRUCTION, INC.

By: _____

Its: _____

[signature page to Borrower Loan Agreement – Berrellesa Palms]

**EXHIBIT A**

**DISBURSEMENT SCHEDULE**

THE LOAN PROCEEDS IN THE AMOUNT OF $14,050,000.00 PLUS BORROWER'S EQUITY IN THE AMOUNT OF $4,937,613.00 (INCLUSIVE OF BORROWER'S FUNDS IN THE AMOUNT OF $10,000.00) AGGREGATING $18,987,613.00 SHALL BE DISBURSED AS FOLLOWS:

I. INITIAL DISBURSEMENT: Funding Lender is hereby authorized and directed to make Initial Disbursements in the sum aggregate of $2,012,141.96 for the purposes, in the amounts, and to the persons indicated:

1) To Funding Lender for Loan expenses, costs and fees, the sum of $171,413.00.

2) To Title Insurer for payment of Title Policy Premiums and recording fees, the approximate sum of $ 32,286.36.

3) To Title Insurer for payment of first installment real estate taxes, the approximate sum of $9,138.21.

4) To Title Insurer for the benefit of the Borrower through Escrow No.: 54606-1065494-11, the approximate sum of $1,799,304.39, including:

| | |
|---|---|
| Bond Financing Costs | $120,654.00 |
| Fees & Permits | $1,113,315.39 |
| Borrower's Legal Fees/Syndication Fees | |
| Financing Costs | $130,085.00 |
| Developer's Fees | $435,250.00 |

II. SUBSEQUENT DISBURSEMENTS: The remainder of the Borrower's Loan proceeds and Borrower's Funds in the sum aggregate of $16,975,471.04 plus funds not disbursed as provided for in Section I hereof or less any additional funds disbursed as provided for in Section I hereof, shall be disbursed in conformity with the following Sections:

A. On or about the first day of each calendar month following commencement of construction of the Improvements, Contractor shall submit to Borrower or Borrower's Architect, a Certified Invoice showing the estimated cost of labor performed on and materials incorporated into the Improvements. The original of such Certified Invoice, certified true and correct by the General Contractor and approved by Borrower or Borrower's Architect, shall be submitted to Bank for payment. Upon verification of the accuracy of the Certified Invoice by the Bank's inspection agent's review of the status of the Improvements, Bank shall disburse to Borrower 100% of the amount of the respective Approved Certified Invoice but in no event shall the aggregate of such payments exceed the sum of $11,861,955.00 except as provided for by Borrower and accompanied by funds for the payment thereof. The Final Disbursement in the sum of $624,313.00 shall be made upon compliance with the provisions of Section 6.3 of the Building Loan Agreement.

B. The sum of $683,184.00 is an interest reserve which shall be disbursed from time to time on the interest payment date specified in the Borrower's Notes by the withdrawing by Funding Lender of sufficient amounts to pay interest due on the Note. Each such interest payment shall then be deemed paid in full. When said sum has been completely disbursed,

Borrower shall make interest payments directly to Funding Lender in accordance with the terms of the Note.

C. The sum of $3,798,319.04 shall be disbursed for soft costs in amounts and for the purposes specified below:

| | | |
|---|---|---|
| 1) | Land Acquisition Cost & Expenses | $195,000.00 |
| 2) | Title & Recording Costs | $7,713.64 |
| 3) | Architectural & Engineering | $853,000.00 |
| 4) | Furnishings | $150,000.00 |
| 5) | Real Estate Taxes | $70,861.79 |
| 6) | Testing and Inspections | $65,000.00 |
| 7) | Management and Wages | $105,000.00 |
| 8) | Bond Financing Costs | $11,586.00 |
| 9) | Permits & Fees | $233,662.61 |
| 10) | Insurance | $95,000.00 |
| 11) | Environmental | $130,000.00 |
| 12) | Audit/Cost Certifications | $3,400.00 |
| 13) | Legal/Syndication Costs | $35,915.00 |
| 14) | TCAC Monitoring Costs | $34,226.00 |
| 15) | Rent Up/Marketing | $157,000.00 |
| 16) | Relocation | $60,000.00 |
| 17) | Security | $120,000.00 |
| 18) | Soft Cost Contingency | $202,620.00 |
| 19) | Hard Cost Contingency | $1,268,334.00 |

D. The sum of $7,700.00 shall be disbursed from time to time for inspection fees incurred by Funding Lender's agent, by the withdrawing by Funding Lender of sufficient amounts to pay the inspection fees incurred for the inspection of the Project. When said sum has been completely disbursed, Borrower shall make inspection fee payments directly to Funding Lender's request.

E. Any contingency line items in the Cost Breakdown shall be available for disbursement or reallocation to other line items upon Funding Lender's written approval (not unreasonably to be withheld provided all other requisite approvals have been obtained) to pay cost increases due to Change Orders and other changes of specific line items if and to the extent approved by Funding Agent; provided, however, that no contingency line item may be reduced by disbursement or reallocation to other line items if the amount remaining in the contingency line item would thereby be reduced (as a percentage of the original amount of such line item) below the percentage remaining undisbursed of line items for hard costs to complete the Improvements.

F. It is a requirement of the Borrower Loan that any unexpended Borrower Funds or other Borrower Equity allocated in a line item in the Cost Breakdown be expended (and if in a Borrower Funds Account, disbursed) prior to any disbursement of Loan proceeds for such line item.

On the initial Closing Date and in accordance with Section 2.3(c) of this Borrower Loan Agreement, Funding Lender shall fully disburse the Borrower Loan Proceeds in the amount of $1,821,016.00 from the Borrower Construction/Permanent Note to the Title Insurer in accordance with the Title and Closing Instructions. The Title Insurer shall wire all undisbursed Loan proceeds back to Funding Lender that Funding Lender shall maintain in a cash collateral account under the control of Funding Lender and subject to the Assignment of Deposit Account. After the remaining Loan Proceeds attributed to the Borrower

Construction/Permanent Note are fully disbursed by Funding Lender from such cash collateral account, Funding Lender shall first disburse the remaining Loan Proceeds attributed to Borrower Construction/Permanent Note and then the Loan Proceeds attributed to the Borrower Construction Note.

## SCHEDULE 1

## PROGRESS PAYMENT SCHEDULE

Commercial/Multi-Family Building

Each Disbursement for the Building(s) shall be in the amount of 100% of the amount requested until 95% of all Borrower Funds and Borrower Loan Proceeds allocated to such work has been fully disbursed; the remaining 5% (which shall consist solely of Borrower Loan Proceeds) shall be disbursed when all conditions for Final Disbursement have been met.

# EXHIBIT B

# COST BREAKDOWN

**BORROWER NAME:** Berrellesa Palms
**Loan No.** 1060363672
**Draw #**

DATE:

CONSTRUCTION PROGRESS REPORT

HARD COSTS

| Line Item No. | Budget Description | Total Project Budget | Equity | Loan Budget | Previous Budget Transfers | This Period Budget Transfer | Revised Project Budget | Previous Disbursements $ Amount | % | Request This Period | Total Disbursed incl. Req. This Period $ Amount | % | Remaining Funds $ Amount | % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Building Costs | $ 12,486,268.00 | $ 1,307,858.00 | $ 11,178,410.00 | $ - | $ - | $ 12,486,268.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 12,486,268.00 | 100.00% |
| | Hard Cost Contingency | $ 1,268,334.00 | $ - | $ 1,268,334.00 | $ - | $ - | $ 1,268,334.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 1,268,334.00 | 100.00% |
| | | $ - | $ - | $ - | $ - | $ - | $ - | $ - | 0.00% | $ - | $ - | 0.00% | $ - | 0.00% |
| | TOTAL HARD COSTS: | $ 13,754,602.00 | $ 1,307,858.00 | $ 12,446,744.00 | $ - | $ - | $ 13,754,602.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 13,754,602.00 | 100.00% |

SOFT COSTS

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Land Acq. Holding & Closing Costs | $ 195,000.00 | $ 195,000.00 | $ - | $ - | $ - | $ 195,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 195,000.00 | 100.00% |
| | Title & Recording | $ 40,000.00 | $ 40,000.00 | $ - | $ - | $ - | $ 40,000.00 | $ - | 0.00% | $ 32,286.36 | $ 32,286.36 | 80.72% | $ 7,713.64 | 19.28% |
| | A&E | $ 853,000.00 | $ 772,535.00 | $ 80,465.00 | $ - | $ - | $ 853,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 853,000.00 | 100.00% |
| | Furnishing | $ 150,000.00 | $ 12,000.00 | $ 138,000.00 | $ - | $ - | $ 150,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 150,000.00 | 100.00% |
| | Real Estate Taxes | $ 80,000.00 | $ 50,415.00 | $ 29,585.00 | $ - | $ - | $ 80,000.00 | $ - | 0.00% | $ 9,138.21 | $ 9,138.21 | 11.42% | $ 70,861.79 | 88.58% |
| | Testing & Inspections | $ 65,000.00 | $ 7,222.00 | $ 57,778.00 | $ - | $ - | $ 65,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 65,000.00 | 100.00% |
| | Management/Wages | $ 105,000.00 | $ 11,667.00 | $ 93,333.00 | $ - | $ - | $ 105,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 105,000.00 | 100.00% |
| | Bond Financing Costs | $ 132,240.00 | $ 132,240.00 | $ - | $ - | $ - | $ 132,240.00 | $ - | 0.00% | $ 120,654.00 | $ 120,654.00 | 91.24% | $ 11,586.00 | 8.76% |
| | Permits & Fees | $ 1,346,978.00 | $ 1,328,978.00 | $ 18,000.00 | $ - | $ - | $ 1,346,978.00 | $ - | 0.00% | $1,113,316.39 | $ 1,113,316.39 | 82.65% | $ 233,662.61 | 17.35% |
| | Insurance | $ 95,000.00 | $ 95,000.00 | $ - | $ - | $ - | $ 95,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 95,000.00 | 100.00% |
| | Environmental | $ 130,000.00 | $ 117,769.00 | $ 12,231.00 | $ - | $ - | $ 130,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 130,000.00 | 100.00% |
| | Audit/Cost Certifications | $ 3,400.00 | $ 40.00 | $ 3,360.00 | $ - | $ - | $ 3,400.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 3,400.00 | 100.00% |
| | Legal/Syndicate/Financing | $ 166,000.00 | $ 166,000.00 | $ - | $ - | $ - | $ 166,000.00 | $ - | 0.00% | $ 130,085.00 | $ 130,085.00 | 78.36% | $ 35,915.00 | 21.64% |
| | TCAC Monitoring Costs | $ 34,226.00 | $ 34,226.00 | $ - | $ - | $ - | $ 34,226.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 34,226.00 | 100.00% |
| | Rent Up/Marketing | $ 157,000.00 | $ - | $ 157,000.00 | $ - | $ - | $ 157,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 157,000.00 | 100.00% |
| | Relocation | $ 60,000.00 | $ 60,000.00 | $ - | $ - | $ - | $ 60,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 60,000.00 | 100.00% |
| | Security | $ 120,000.00 | $ - | $ 120,000.00 | $ - | $ - | $ 120,000.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 120,000.00 | 100.00% |
| | Developer Fee | $ 435,250.00 | $ 435,250.00 | $ - | $ - | $ - | $ 435,250.00 | $ - | 0.00% | $ 435,250.00 | $ 435,250.00 | 100.00% | $ - | 0.00% |
| | Soft Cost Contingency | $ 202,620.00 | $ - | $ 202,620.00 | $ - | $ - | $ 202,620.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 202,620.00 | 100.00% |
| | Interest Reserve | $ 683,184.00 | $ - | $ 683,184.00 | $ - | $ - | $ 683,184.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 683,184.00 | 100.00% |
| | Inpsection fee | $ 7,700.00 | $ - | $ 7,700.00 | $ - | $ - | $ 7,700.00 | $ - | 0.00% | $ - | $ - | 0.00% | $ 7,700.00 | 100.00% |
| | Bank Fees | $ 171,413.00 | $ 171,413.00 | $ - | $ - | $ - | $ 171,413.00 | $ - | 0.00% | $ 171,413.00 | $ 171,413.00 | 100.00% | $ - | 0.00% |
| | | | | | | | | | | | | | | |
| | TOTAL SOFT COSTS: | $ 5,233,011.00 | $ 3,629,755.00 | $ 1,603,256.00 | $ - | $ - | $ 5,233,011.00 | $ - | 0.00% | $2,012,141.96 | $ 2,012,141.96 | 38.45% | $ 3,220,869.04 | 61.55% |
| | GRAND TOTALS: | $ 18,987,613.00 | $ 4,937,613.00 | $ 14,050,000.00 | $ - | $ - | $ 18,987,613.00 | $ - | 0.00% | $ 2,012,141.96 | $ 2,012,141.96 | 10.60% | $ 16,975,471.04 | 89.40% |

## EXHIBIT C

## SCHEDULE OF PLANS AND SPECIFICATIONS

Consisting of

| Sheet No. | Descriptions |
|---|---|

Drawings prepared by KTGY Group, Inc., dated 9-27-12 (Bid Set)

Architectural

| | |
|---|---|
| A-000 | Title Sheet |
| A-001 | Project Data |
| A-002 | Code Analysis, Allowable Area & Opening Protection |
| A-003 | Code Analysis – Exiting Diagram |
| A-004 | Conditions of Approval |
| A-005 | Green Point Checklist |
| A-006 | California Residential Mandatory Measures |
| A-011&12 | General Notes |
| A-100 | Site Plan |
| A-101 | Site Accessibility |
| A-201 | Level 1 Floor Plan |
| A-202 | Level 2 Floor Plan |
| A-203 | Level 3 Floor Plan |
| A-204 | Roof Plan |
| A-211 | Level 1 Slab Plan |
| A-212 | Level 2 Slab Plan |
| A-221 | Level 1 Reflected Ceiling Plan |
| A-222 | Level 2 Reflected Ceiling Plan |
| A-223 | Level 3 Reflected Ceiling Plan |
| A-301&302 | Building Elevations |
| A-401&402 | Building Sections |
| A-411 | Wall Sections |
| A-500 | 2010 CBC Dwelling Unit Accessibility |
| A-501 | Enlarged Plan – Unit Type A |
| A-502 | Enlarged Plans – Unit Types B, C, D |
| A-510 | 2010 CBC Common Area Accessibility |
| A-511-514 | Common Area |
| A-520 | 2010 CBC Stair Accessibility |
| A-521 | Stair 1 Plans and Section |
| A-522 | Stair 2 Plans and Section |
| A-523 | Stair 3 and Grand Stair |
| A-530 | 2010 CBC Elevator Accessibility |
| A-531 | Elevator Plans and Section |
| A-541 | Trash Room Plans and Section |
| A-611&612 | Unit Interior Elevations |
| A-701 | Door/Window Schedule |
| A-702 | Room Finish Schedule |
| AD-110 | Type 1, Vertical & Horiz. Assemblies & Conc. Details |
| AD-120 | Type V – Vertical Assemblies |
| AD-121 | Type V – Horizontal Assemblies |
| AD-130 | Firewall Details |

| | |
|---|---|
| AD-140 | Firestop Assembly Details |
| AD-150 | Acoustical Notes and Details |
| AD-210 | Below Grade Waterproofing Details |
| AD-220 | Podium & At Grade Waterproofing Details |
| AD-310 | Door Details |
| AD-320 | Window Details |
| AD-410 | Flat Roof Details |
| AD-411 | Sloped Roof Details |
| AD-520 | Exterior Details |
| AD-610 | Common Area Interior Details |
| AD-611 | Unit Interior Details |
| AD-710&711 | Garage Details |
| AD-810 | Stair Details |
| AD-910 | Signage Details |

Structural

| | |
|---|---|
| S-001 | Title Page and Sheet Index |
| S-101&102 | General Notes |
| S-103 | Typical Details – Concrete |
| S-104 | Typical Details – Masonry |
| S-202P | Rammed Aggregate Pier Plan – North |
| S-211 | Foundation Plan – South |
| S-212 | Post-Tensioned Foundation Plan – North |
| S-212T | Foundation Framing Tiedown Plan – North |
| S-221 | Second Floor Framing Plan – South |
| S-221T | Second Floor Framing Tiedown Plan – South |
| S-222 | Second Floor Framing Plan – North |
| S-231 | Third Floor Framing Plan – South |
| S-232 | Third Floor Framing Plan – North |
| S-241 | Roof Framing Plan – South |
| S-242 | Roof Framing Plan – North |
| S-301 | Residential – Typical P/T Concrete Slab On Grade Details |
| S-302 | Residential Foundation Details |
| S-401&402 | Garage – Foundations, Walls & Columns |
| S-403 | Shear Wall Elevations |
| S-501 | Typical P/T Concrete Slab Details |
| S-502 | P/T Concrete Slab Details |
| S-510&511 | Second Floor/Podium Wood Details |
| S-601 | Typical Wood Stud Wall Details & Schedules |
| S-602 | Typical Details – Wood |
| S-603 | Typical Wood Wall/Floor Framing Details |
| S-604 | Wood Wall/Floor Framing Details |
| S-610 | Wood Joist/Joist Blocking Tie Details |
| S-701 | Typical Wood Wall/Roof Framing Details |
| S-702 | Wood Wall/Roof Framing Details |
| S-801 | Wood Shear Wall Schedule & Details |
| S-802 | Wood Shear Wall Hold Down Schedule, Elevations & Details |

Mechanical

| | |
|---|---|
| M0.1 | Legend, Symbols, Schedules & Notes |
| M2.1 | First Floor Building Plan |
| M2.2 | Second Floor Building Plan |
| M2.3 | Third Floor Building Plan |
| M2.4 | Roof Plan |
| M3.1 | Unit Plans A1, A2, A3 & A4 |
| M3.2 | Unit Plans A5, B, C & D |
| M4.1 | Mechanical Details |
| MT.1-7 | Title 24 Compliance Report Pages |

Plumbing

| | |
|---|---|
| P0.1 | Legend, Symbols, Schedules and Notes |
| P2.1 | First Floor Building Plan |
| P2.2 | Second Floor Building Plan |
| P2.3 | Third Floor Building Plan |
| P2.4 | Roof Plan |
| P3.1 | Unit Plans 1A, 1B, 1C |
| P3.2 | Unit Plans A5, B, C & D |
| P4.1 | Waste/Vent Riser Diagram |
| P4.2 | Water Riser Diagram |
| P5.1 | Details Plumbing |

Electrical

| | |
|---|---|
| E0.1 | Legend, Symbols, Schedules & Notes |
| E1.0 | Site Plan |
| E2.1 | First Floor Building Plan – Power & Signal |
| E2.2 | Second Floor Building Plan – Power & Signal |
| E2.3 | Third Floor Building Plan – Power & Signal |
| E2.4 | Roof Plan |
| E3.1 | First Floor Building Plan – Lighting |
| E3.2 | Second Floor Building Plan – Lighting |
| E3.3 | Third Floor Building Plan – Lighting |
| E4.1 | Unit Plans A1, A2, A3, A4, A5 |
| E4.2 | Unit Plans B, C, D |
| E5.0 | Diagrams & Details |
| E5.1&2 | Details |
| E5.3 | Panel Schedules |
| E6.2 | Electrical Loan Calculations |

Civil (Offsite)

| | |
|---|---|
| C-1 | Title and General Notes |
| C-2.1&2 | Details |
| C-3 | Offsite Demolition Plan |
| C-4.1 | Offsite Improvements – Plan and Profile (Berrellesa & Buckley Street) |
| C-4.2 | Offsite Improvements – Plan and Profile (Foster & Richardson Street) |
| C-5.1 | Offsite Improvements – Cross Sections (Berrellesa Street) |
| C-5.2 | Offsite Improvements – Cross Sections (Buckley Street) |
| C-5.3 | Offsite Improvements – Cross Sections (Foster & Richardson Street) |
| C-6 | Offsite Demolition and Striping Plan |

Civil (Onsite)

| | |
|---|---|
| C-1 | Title and General Notes |
| C-2 | Details |
| C-3 | Demolition Plan |
| C-4 | Storm Water Treatment Plan |
| C-5 | Grading & Drainage Plan |
| C-6 | Utility Plan |
| C-7 | Dimensional and Striping Plan |
| C-8 | Erosion Control Plan |
| C-9 | Best Management Practice |

Landscape

| | |
|---|---|
| L-100 | Landscape Legends and Notes |
| L-101 | Landscape Layout Plan |
| L-201 | Planting Plan |
| L-301 | Irrigation Plan |
| L-302 | Irrigation Notes & Details |
| L-303 | Irrigation Details |
| L-701 | Landscape Construction Plan |
| L-702 | Landscape Construction Details |
| L-703 | Planting Details |

## EXHIBIT D

## DEVELOPER FEE PAYMENT SCHEDULE

- $435,250 paid on or about the Initial Closing Date.
- Up to $174,100 paid on or after the Conversion Date, provided (i) an Event of Default does not exist, (ii) that portion of the Borrower Loan attributed to the Borrower Construction Note is paid in full, and (iii) the portion of the Borrower Loan attributed to the Borrower Construction/Permanent Note is fully funded.
- After the Conversion Date, provided debt service of the Borrower Loan is current, $261,150 paid after the final capital contribution is made under the Partnership Agreement.
- After the third payment, $329,500 paid as permitted under the Partnership Agreement and provided debt service of the Borrower Loan is current.

## EXHIBIT E

## SUBORDINATE DEBT

$4,775,000.00 loan from the Governmental Lender, which is subordinated to the Borrower Loan pursuant to an Intercreditor and Subordination Agreement dated December 1, 2012, by and among the Borrower, the Governmental Lender and the Funding Lender.

## EXHIBIT F

## SPECIAL CONDITIONS

**SPECIAL CONDITIONS: The following provisions are incorporated into the Borrower Loan Agreement dated as of December 1, 2012, and supersede any provision of the Borrower Loan Agreement to the extent inconsistent therewith.**

A. [intentionally omitted]

B. [intentionally omitted]

C. [intentionally omitted]

D. [intentionally omitted]

E. Extension: Provided there is no Event of Default (as defined in the Borrower Loan Documents), Borrower will be permitted to extend the Outside Conversion Date (the "Extension") for up to three (3) months ("Extension Period") provided that all of the following conditions are satisfied:

1. Borrower by written notice to the Funding Lender requests the Extension and concurrently pays the applicable Extension Fee on or before (60) days prior to the Outside Conversion Date.

2. Borrower executes any documentation required by the Funding Lender in connection with such Extension.

3. Borrower causes the Title Insurer to issue an endorsement to the Title Policy assuring the Funding Lender for the benefit of the Funding Lender that the priority of the Trust Deed is unaffected by the Extension and that there are no additional exceptions to title, except those approved by the Funding Lender.

4. Funding Lender will have received Borrower's and Guarantors' most current Financial Statements, certified as correct by Borrower and Guarantors, as applicable and there will have been no material adverse change in Borrower's or Guarantors' financial condition that will, in the Funding Lender's sole determination, adversely affect their respective abilities to perform their obligations to the Governmental Lender.

5. Funding Lender determines that a sufficient interest reserve exists to carry the Borrower Loan through the Extension Period.

6. Funding Lender will have received Borrower's and Guarantors' most current Financial Statements, certified as correct by Borrower and Guarantors, as applicable and there will have been no material adverse change in Borrower's or Guarantors' financial condition that will, in the Funding Lender's sole determination, adversely affect their respective abilities to perform their obligations to the Governmental Lender or the Funding Lender.

7. Construction of the Project, including all Improvements, shall be completed free of any liens except as permitted herein and all licenses and permits for the use and occupancy thereof shall be issued and provided to Lender.

8. The Project shall have achieved 95% occupancy by Tenants who qualify as Frail Seniors (as defined in Section 8.9 above).

9. Borrower shall provide Funding Lender with a fully executed and effective (i) Section 8 Housing Assistance Payments Contract ("HAP Contract") between Borrower and the United States of America, acting through the Contra Costa County Housing Authority or other authorized contract administrator; (ii) a Consent to Assignment of HAP Contract as Security for Financing by the United States of America, acting through the Contra Costa County Housing Authority or other authorized contract administrator naming the Funding Lender as assignee; and (iii) an Assignment of the HAP Contract in favor of the Funding Lender.

10. The Funding Lender determines in its reasonable discretion that the Borrower's commitment for permanent takeout financing in the principal amount of $6,000,000.00 from the California Department of Housing and Community Development ("HCD") remains in full force and effect and such financing shall be available to repay the Borrower Construction Note no later than the Extended Outside Conversion Date, including without limitation the Funding Lender's receipt of an estoppel letter or other certification as to the effectiveness of such commitment from HCD as the Funding Lender may require.

11. Borrower shall have paid to the Funding Lender the Extension Fee.

F. Conversion: Provided that no uncured Event of Default has occurred as provided in Article IX of the Borrower Loan Agreement, and upon Borrower's satisfaction of the Conditions to Conversion (defined below), pursuant to Article III the Borrower Loan shall convert (the "Conversion") from a construction loan into a permanent loan (the "Permanent Loan"). The term "Conditions to Conversion" shall mean all the following:

1. A certificate of occupancy or its equivalent has been issued by the Local Authority covering the entire Project;

2. By written notice delivered to the Funding Lender, Borrower requests the Conversion;

3. Borrower and Guarantor each execute any documentation reasonably required by Funding Lender in connection with such Conversion;

4. Borrower causes the Title Company to issue an endorsement to the Title Policy assuring Funding Lender that the priority of the Trust Deed is unaffected by the Conversion and there are no additional exceptions to title, except those approved by Funding Lender;

5. Funding Lender shall have received and approved Borrower's and Guarantor's current Financial Statements, certified as true and correct by Borrower and Guarantor, and there shall have been no material adverse change in Borrower's and Guarantor's financial condition;

6. Construction of the Improvements shall have been completed in accordance with all requirements of this Borrower Loan Agreement, as determined by Funding Lender;

7. The Borrower shall prepay the Borrower Loan in an amount equal to the outstanding balance of the Borrower Construction Note (and after such payment, no further disbursements shall be made from the Borrower Loan) and the difference, if any, between (i) the outstanding amount of the –Borrower Construction/Permanent Note and (ii) the Permanent Period Amount. The "Permanent Period Amount" shall equal that amount of principal (the "Maximum DSC Amount") which will, based on the amortization schedule and interest rates established under the Borrower Construction/Permanent Note, that provide for a minimum 1.15 to 1.00 Debt Service Coverage Ratio. The Debt Service Coverage Ratio is a fraction with the numerator constituting the net operating income of the Project determined as of the DSC Calculation Date (based on annualized actual rents -received for 90 days, actual debt service and proforma expenses of -$382,637.00, including annual replacement reserves of –$29,400.00, and the denominator constituting annualized debt service on the Borrower -Construction/Permanent Note based on the applicable interest -rate and the funded principal amount of the Borrower –Construction/Permanent Note, as of the DSC Calculation Date. - For purposes of determining the Maximum DSC Amount-, the DSC Calculation Date is the Conversion Date-;

8. The Property shall achieve a Debt Service Coverage Ratio (calculated pursuant to paragraph 7 above) of 1.15 to 1.00;

9. During the term of the Permanent Loan, commencing on the first (1st) Business Day of each month, Borrower shall pay monthly installments of principal and interest as required under the Borrower Construction/Permanent Note; and

10. The Property shall have achieved 90% occupancy for the trailing three (3) month period ending on the Conversion Date.

-Conversion must be attained no later than the Outside Conversion Date, or upon payment of any fee for extension of Conversion set forth in a separate fee letter on or before the Outside Conversion Date and satisfaction of the other Extension conditions provided above, no later than the Extended Outside Conversion Date.

G. Environmental Agreements. In addition to the agreements and indemnities set forth in the Environmental Indemnity, Borrower agrees as follows (collectively, the "Groundwater Restrictions"):

1. Neither Borrower nor any Tenant shall use the groundwater on the Property for any purpose whatsoever, including, but not limited to, irrigation or other domestic purposes; provided, however that groundwater wells may be installed on the Property if required by any Governmental Authority; and

2. Neither Borrower nor any Tenant shall handle, use, or store any volatile organic compounds at the Property that have been reported in the underlying groundwater contamination plume, including but not limited to, DCA, tetrachloroethylene (PCE), or vinyl chloride.

3. Borrower shall at all times comply with that certain Covenant and Environmental Restriction on Property recorded October 21, 2010 as Instrument No. 2010-0234091-00 of the official records of Contra Costa County.

4. Borrower shall at all times comply with the Soil and Groundwater Management Plan, including without limitation Addendum No. 1, prepared by Fugro West Inc. dated December 23, 2010.

H. Conditions to Hard Costs Disbursements. No Borrower Loan Proceeds will be disbursed for hard costs until the Funding Lender receives and approves in its sole discretion: (1) final stamped construction drawings, provided approval is required only to the extent such final stamped construction drawings do not conform to the drawings previously submitted to and approved by the Funding Lender and (2) with respect to Borrower Loan Proceeds associated with this work, all subcontracts for concrete, masonry, carpentry and drywall, provided that approval is required only to the extent the costs associated with such subcontracts are materially different from costs for such subcontracts previously submitted to and approved by the Funding Lender.

# MULTIFAMILY CONSTRUCTION NOTE

$12,028,984 December 19, 2012

FOR VALUE RECEIVED, the undersigned ("Borrower") promises to pay to the order of the COUNTY OF CONTRA COSTA, CALIFORNIA ("Governmental Lender"), the maximum principal sum of Twelve Million Twenty Eight Thousand Nine Hundred and Eighty Four Dollars and No/100 ($12,028,984), with interest on the unpaid principal balance from time to time outstanding at the annual rate as set forth on Schedule A.

1. **Defined Terms**. As used in this Note, the following terms shall have the following definitions:

(a) "Borrower Loan Agreement" means that certain Borrower Loan Agreement dated as of December 1, 2012 by and between Borrower and Lender.

(b) "Business Day" means any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in San Francisco, California are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

(c) "Construction/Permanent Note" means the Multifamily Construction/Permanent Note dated December 19, 2012, from the Borrower to the Lender evidencing a portion of the Borrower Loan.

(d) "Default Rate" shall have the meaning set forth in Section 8 of this Note.

(e) "First Payment Date" means January 1, 2013.

(f) "Funding Lender" means Bank of the West, a California banking corporation.

(g) "Indebtedness" means the principal of, interest on, and any other amounts due at any time under, this Note, the Trust Deed or any other Borrower Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of the Trust Deed as described in Section 2 of the Trust Deed.

(h) "Lender" means the County of Contra Costa, California and any subsequent holder of this Note.

(i) "Loan" or "Borrower Loan" means the loan evidenced by this Note and the Construction/Permanent Note, the proceeds of which shall be disbursed in accordance with the Borrower Loan Agreement.

(j) "Loan Month" means the period commencing on a Loan Payment Date and ending on the day preceding the next succeeding Loan Payment Date (without adjustment in either case for Business Day conventions).

(k) "Loan Payment Date" means the first Business Day of each month, commencing on the First Payment Date.

(l) "Maturity Date" means the earlier to occur of (i) April 1, 2045, or (ii) any earlier date on which the unpaid principal balance of the Note becomes due and payable, by acceleration or otherwise.

(m) "Maximum Rate" means the lesser of (i) 12% per annum or (ii) the maximum interest rate that may be paid on the Loan under State law.

(n) "Note" or "Borrower Note" means this Multifamily Construction Note.

(o) "Note Interest" shall have the meaning set forth in Paragraph 1 of Schedule A to this Note.

(p) "Notice Prepayment Date" means April 1, 2015.

All other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Borrower Loan Agreement.

2. **Method of Payment**. All payments due under this Note shall be payable to Servicer, or, if there is no Servicer, to the Lender, or its successor. Each such payment shall be made by wire transfer of immediately available funds in accordance with wire transfer instructions that the Lender or Servicer shall supply by Written Notice to the Borrower from time to time.

3. **Payment of Interest**. Interest shall be paid as follows:

(a) Borrower shall pay all amounts due under this Note at the times and in the amounts set forth herein and in the Borrower Loan Agreement. Borrower shall make its payments under this Note in immediately available funds.

(b) Borrower shall pay monthly payments of interest only, as set forth on Schedule A attached hereto, in successive monthly installments commencing on the First Payment Date and continuing on each Loan Payment Date thereafter until the Maturity Date. Such payments shall be made to the Servicer, or, if there is no Servicer, to the Lender by 11:00 a.m., San Francisco time, on each Loan Payment Date.

(c) Any accrued interest remaining past due may, at Lender's discretion, be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note, and any reference below to "accrued interest" shall refer to accrued interest that has not become part of the unpaid principal balance.

(d) Borrower shall pay all unpaid principal of and interest on this Note on the Maturity Date and any other amounts due under subsection 3(a) hereof. The unpaid principal balance shall continue to bear interest after the Maturity Date at the Default Rate set forth in this Note until and including the date on which it is paid in full.

(e) Any regularly scheduled monthly installment of interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(f) Borrower shall make all payments of principal and interest under this Note without relief from valuation and appraisement laws.

(g) Borrower acknowledges that the calculation of all interest payments shall be made by the Lender, and shall be final and conclusive, absent manifest error.

4. **Application of Payments**. If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable under this Note in any manner and in any order determined by Lender, in Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security**. The Indebtedness is secured by, among other things, the Trust Deed, and reference is made to the Trust Deed for other rights of Lender as to collateral for the Indebtedness.

6. **Acceleration**. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, the Prepayment Fee payable under Section 10, if any, and all other amounts payable under this Note and any other Borrower Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower (except if notice is required by applicable law, then after such notice). Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge**. If any amount payable under this Note or under the Trust Deed or any other Borrower Loan Document is not received by Lender when such amount is due (unless applicable law requires a longer period of time before a late charge may be imposed, in which event, such longer period shall be substituted), Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to six percent (6.0%) of such amount (unless applicable law requires a lesser amount be charged, in which event such lesser amount shall be substituted). Notwithstanding the foregoing, with regard to each regularly scheduled monthly installment of interest payable pursuant to this Note, such late charge shall not become due and payable to Lender so long as the Borrower makes such payment on or prior to the fifteenth ($15^{th}$) calendar day following the date upon which such payment is due (or the Business Day immediately following such fifteenth (15th) calendar day if such fifteenth ($15^{th}$) calendar day is not a Business Day). Any accrued but unpaid late charges shall be added

to and become part of the unpaid principal balance of this Note, shall bear interest at the rate or rates specified in this Note, and shall be secured by the Trust Deed and the other applicable Borrower Loan Documents. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment, and such late charge shall be deemed liquidated damages and not additional interest or a penalty. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 8. Notwithstanding anything to the contrary in any other Borrower Loan Document, if a Servicer has been appointed by Lender, any late charges payable hereunder shall not be remitted to Lender and shall instead be paid directly to Servicer, who shall apply such late charges in accordance with the terms of the applicable servicing agreement. Any action regarding the collection of a Late Charge will be without prejudice to any other rights, and shall not act as a waiver of any other rights that the Servicer, if any, or the Lender may have as provided herein, in the other Borrower Loan Documents, or at law or in equity.

8. **Default Rate**. So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate per annum (the "Default Rate") equal to the lesser of the Maximum Rate or a rate equal to the Note Interest plus five percent (5%), in each case compounded monthly (computed in accordance with Schedule A in the same manner in which Note Interest is computed). If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, that, during the time that any monthly installment under this Note is delinquent, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent or any other Event of Default has occurred and is continuing, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate as provided above represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of Borrower's delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

9. **No Limit on Personal Liability**.

(a) Borrower shall be personally liable for all amounts due under this Note.

(b) In addition to any personal liability for the Indebtedness, Borrower shall be personally liable to Lender for (1) the performance of all of Borrower's obligations under the Environmental Indemnity Agreement dated as of the date hereof; and (2) any costs and expenses incurred by Lender in connection with the collection of any amount for which Borrower is personally liable under this Section 9, including out of pocket expenses and reasonable fees of attomeys and expert witnesses and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(c) Lender may exercise its rights against Borrower personally without regard to whether Lender has exercised any rights against the Property or any other security, or pursued any rights against any guarantor, or pursued any other rights available to Lender under this Note, the Trust Deed, any other Borrower Loan Document or applicable law. For purposes of this Section 9, the term "Property" shall not include any funds that (1) have been applied by Borrower as required or permitted by the Trust Deed prior to the occurrence of an Event of Default or (2) Borrower was unable to apply as required or permitted by the Trust Deed because of a bankruptcy, receivership, or similar judicial proceeding. To the fullest extent permitted by applicable law, in any action to enforce Borrower's personal liability under this Section 9, Borrower waives any right to set off the value of the Property against such personal liability.

10. **Voluntary and Involuntary Prepayments.**

(a) Borrower may voluntarily prepay this Note in whole or in part at any time, without penalty or premium.

(b) All prepayments shall include payment of accrued interest on the principal amount so prepaid and shall be applied to payment of interest before application to principal. In the event of partial prepayment, such prepayments shall be applied to principal payments in the inverse order of their maturity.

(c) The Borrower shall prepay the outstanding principal balance of this Note at the direction of the Lender, in whole or in part, at a prepayment price equal to the outstanding principal balance of this Note prepaid, plus accrued interest plus any other amounts payable under this Note or the other Borrower Loan Documents, upon the occurrence of any event or condition described below:

(1) in whole or in part, if the Property shall have been damaged or destroyed to the extent that it is not practicable or feasible to rebuild, repair or restore the damaged or destroyed property within the period and under the conditions described in the Trust Deed following such event of damage or destruction; or

(2) in whole or in part, if title to, or the use of, all or a portion of the Property shall have been taken under the exercise of the power of eminent domain by any governmental authority which results in a

prepayment of this Note under the conditions described in the Trust Deed; or

(3) in whole or in part, to the extent that insurance proceeds or proceeds of any condemnation award with respect to the Property are not applied by Borrower to restoration of the Property in accordance with the provisions of the Trust Deed.

In connection with any such prepayment, the Borrower shall deposit immediately available funds with the Lender no later than 11:00 a.m. San Francisco time, on the date fixed by the Lender, which date shall be communicated by the Lender in writing to the Borrower. To the extent that the Borrower receives any insurance proceeds or condemnation awards that are to be applied to the prepayment of this Note, such amounts shall be applied to the prepayment of this Note. No prepayment premium shall be payable with respect to any prepayment required by this Section 10(c).

(d) The Borrower shall prepay the entire outstanding principal balance of this Note, at the direction of the Lender, at a price equal to the outstanding principal balance of the Note, plus accrued interest and any other amounts payable under this Note or the Borrower Loan Agreement through the date of prepayment, upon the occurrence of any event or condition described below:

(1) upon the written direction of the Funding Lender no later than the day before (a) any sale of the Project, restructuring of the Borrower or any other event that would cause or be deemed to cause an assumption of obligations of an unrelated party for purposes of Section 1.150-1(d)(2) of the Regulations (any such event referred to herein as a "Transfer") which Transfer would occur within six months of a "refinancing" (as contemplated by such Regulation), or (b) any "refinancing" that would occur within six months of a Transfer; or

(2) upon a Determination of Taxability.

In connection with any such prepayment, the Borrower shall wire transfer immediately available funds by no later than 11:00 a.m., San Francisco time, on the date fixed by the Lender, which date shall be communicated by the Lender in writing to the Borrower.

(e) Any permitted or required prepayment of less than the unpaid principal balance of this Note shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless Lender agrees otherwise in writing.

(f) Funding Lender shall have the right, in its sole discretion, upon thirty (30) days notice, in substantially the form attached hereto as Schedule C (which notice may be rescinded by the Funding Lender on or before the date that is thirty (30) days prior to the Notice Prepayment Date), to require Borrower to repay this Note, together with all amounts due under the Borrower Loan Documents, in full, at any time on or after the Notice Prepayment Date without prepayment premium or penalty.

11. **Costs and Expenses**. To the fullest extent allowed by applicable law, Borrower shall pay all expenses and costs, including, without limitation, out-of-pocket expenses and reasonable fees of attorneys (including, without limitation, in-house attorneys) and expert witnesses and costs of investigation, incurred by Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Borrower Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. For purposes of Section 9(e) and this Section 11, attorneys' out of pocket expenses shall include, but are not limited to, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses.

12. **Forbearance**. Any forbearance by Lender in exercising any right or remedy under this Note, the Trust Deed, or any other Borrower Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

13. **Waivers**. Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower and all endorsers and guarantors of this Note and all other third party obligors.

14. **Loan Charges**. Neither this Note nor any of the other Borrower Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Borrower Loan Document, whether considered separately or together with other charges provided for in any other Borrower Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

15. **Obligations of the Borrower Absolute and Unconditional.** Subject to Section 9, the obligations of the Borrower to make all payments required under this Note and the other Borrower Loan Documents on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder and under the other Borrower Loan Documents shall be primary, absolute, unconditional and irrevocable, and shall be paid or performed strictly in accordance with the terms of this Note and the other Borrower Loan Documents under any and all circumstances, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Property or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Property or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Property, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Lender's legal organization or status, or any default of the Lender hereunder or under any other Borrower Loan Document, and regardless of the invalidity of any action of the Lender or the invalidity of any portion of this Note or the other Borrower Loan Documents. Provided further, the obligations of Borrower under this Note and the other Borrower Loan Documents shall not be affected by:

(a) any lack of validity or enforceability of any Borrower Loan Document or any of the Related Documents;

(b) any amendment of, or any waiver or consent with respect to, any of the Borrower Loan Documents or Funding Loan Documents;

(c) the existence of any claim, set-off, defense or other rights which Borrower, General Partner or Guarantor may have at any time against Lender (other than the defense of payment in accordance with the terms of this Note or the other Borrower Loan Documents) or any other Person, whether in connection with this Note or any other Borrower Loan Document, the Funding Loan Documents or any transaction contemplated thereby or any unrelated transaction;

(d) any breach of contract or other dispute between Borrower, General Partner or Guarantor, and Lender; or

(e) any exchange, release or nonperfection of any lien or security interest in any collateral pledged or otherwise provided to secure any of the obligations contemplated herein, in any other Borrower Loan Document or in any Related Document.

The Borrower hereby waives the application to it of the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Note or the other Borrower Loan Documents or which releases or purports to release the Borrower therefrom. Nothing contained herein shall be construed as prohibiting the Borrower

from pursuing any rights or remedies it may have against any Person in a separate legal proceeding.

16. **Commercial Purpose**. Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household or agricultural purposes.

17. **Counting of Days**. Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not Business Days.

18. **Notices**. All notices, demands and other communications required or permitted to be given by Lender to Borrower pursuant to this Note shall be in writing, addressed as set forth below, and shall include a reference to "Loan #1060383672." Each notice shall be deemed given on the earliest to occur of (a) the date when the notice is received by the addressee; (b) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (c) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

If to the Borrower:

Berrellesa Palms, L.P.
c/o Resources for Community Development
2220 Oxnard Street
Berkeley, California 94704
Attention: Executive Director
Telephone: (510) 841-4410
Facsimile: (510) 548-3502

and with a copy to:

Gubb & Barshay, LLP
50 California Street, Suite 3155
San Francisco, California 94111
Attention: Scott Barshay, Esq.
Facsimile: (415) 781-6967

and with a copy to:

Union Bank, N.A.
200 Pringle Avenue, Suite 355
Walnut Creek, California 94596
Attention: CFD Division Head
Facsimile: (925) 947-2455

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|---|---|
| If to the Governmental Lender: | County of Contra Costa<br>Department of Conservation and Development<br>30 Muir Road<br>Martinez, California 94553<br>Attention: Community Development Bond Program Manager<br>Telephone: (925) 674-7888<br>Facsimile: (925) 674-7258 |
| If to Funding Lender: | Bank of the West<br>NC-B07-3E-I<br>2527 Camino Ramon<br>San Ramon, California 94583<br>Attention: Anita L. Mayer<br>Telephone : (925) 843-4678<br>Facsimile: (323) 837-3866 |
| With a copy to: | Tomasi Salyer Baroway<br>121 SW Morrison Street, Suite 450<br>Portland, Oregon 97204<br>Attention: Valerie Athena Tomasi, Esq.<br>Telephone: (503) 894-9900<br>Facsimile: (971) 544-7236 |

The Borrower or the Lender may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 18. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 18, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 18 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

19. **Payments on Non-Business Day**. If the date for the making of any payment under this Note is not a Business Day, such payment shall be due and payable on the next succeeding Business Day.

20. **Terms of Note Governing Payment Matters Control in the Event of any Conflict**. In the event the provisions of the Borrower Loan Agreement or the other Borrower Loan Documents (other than this Note) conflict with the provisions of this Note which govern the terms of repayment of the Loan or the payment of other amounts due in connection with the Loan (including, without limitation, the provisions of this Note which govern the required payments of principal, interest and other amounts due in connection with the Loan, the manner of payment, the calculation of interest, the payment of the Lender's costs and expenses, the application of payments received by the Lender, the acceleration of amounts owed by the Borrower, late charges, default rates of interest, prepayments, prepayment premiums or maximum rates of interest or similar charges), the provisions of this Note shall govern and control.

21. **Local Law Provisions (California).** If any Guarantor is liable for only a portion of the Indebtedness, Borrower hereby waives its rights under California Civil Code Section 2822(a) to designate the portion of the Indebtedness that shall be satisfied by Borrower's partial payment.

22. **Determinations by Lender.** Except to the extent expressly set forth in this Note to the contrary, in any instance where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Note, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

23. **Release; Indemnity.**

(a) *Release.* Borrower covenants and agrees that, in performing any of its rights or duties under this Note, neither the Lender, nor its agents or employees, shall be liable for any losses, claims, damages, liabilities and expenses that may be incurred by any of them as a result of such performance, except that no such party will be released from liability for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

(b) *Indemnity.* Borrower hereby agrees to indemnify and hold harmless the Lender and its agents and employees from and against any and all losses, claims, damages, liabilities and expenses including, without limitation, reasonable attorneys' fees and costs and disbursements, which may be imposed or incurred by any of them in connection with this Note, except that no such party will be indemnified for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

24. **Governing Law.** This Note shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

25. **Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Lender's right to bring any suit, action or proceeding relating to matters arising under this Note against Borrower or any of Borrower's assets in any court of any other jurisdiction.

26. **Severability.** The invalidity, illegality or unenforceability of any provision of this Note shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

27. **Remedies Cumulative**. In the event of Borrower's default under this Note, the Lender may exercise all or any one or more of its rights and remedies available under this Note, at law or in equity. Such rights and remedies shall be cumulative and concurrent, and may be enforced separately, successively or together, and the exercise of any particular right or remedy shall not in any way prevent the Lender from exercising any other right or remedy available to the Lender. The Lender may exercise any such remedies from time to time as often as may be deemed necessary by the Lender.

28. **No Agency or Partnership**. Nothing contained in this Note shall constitute Lender as a joint venturer, partner or agent of Borrower, or render Lender liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.

29. **Entire Agreement; Amendment and Waiver**. This Note contains the complete and entire understanding of the parties with respect to the matters covered. This Note may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Note shall be considered as a general waiver.

30. **Further Assurances**. Borrower shall at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that Lender may reasonably request, in order to protect any right or interest granted by this Note or to enable Lender to exercise and enforce its rights and remedies under this Note.

31. **Captions**. The captions of the sections of this Note are for convenience only and shall be disregarded in construing this Note.

32. **Servicer**. Borrower hereby acknowledges and agrees that: (a) from time to time, Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under this Note or the other Borrower Loan Documents, and to otherwise service the Loan and (b) unless Borrower receives written notice from Lender to the contrary, any action or right which shall or may be taken or exercised by Lender may be taken or exercised by such servicer with the same force and effect.

33. **Waiver of Trial by Jury**. THE BORROWER AND THE LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, AND THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW EACH OF THE BORROWER AND THE LENDER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION RELATED TO THIS NOTE OR ANY OTHER DOCUMENT, INSTRUMENT OR TRANSACTION BETWEEN THE PARTIES.

34. **Judicial Reference Provision**. In the event the above waiver of trial by jury is unenforceable, the Borrower and the Lender elect to proceed under the following judicial

reference provision. With the exception of the items specified below, any controversy, dispute or claim between the parties relating to this Note or any other document, instrument or transaction between the parties (each, a "Claim"), will be resolved by a reference proceeding in California pursuant to Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to reference. Venue for the reference will be the Superior Court in the County where real property involved in the action, if any, is located, or in a County where venue is otherwise appropriate under law (the "Court"). The following matters shall not be subject to reference: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including without limitation set-off), (iii) appointment of a receiver, and (iv) temporary, provisional or ancillary remedies (including without limitation writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). The exercise of, or opposition to, any of the above does not waive the right to a reference hereunder.

The referee shall be selected by agreement of the parties. If the Borrower and Lender do not agree, upon request of any party a referee shall be selected by the Presiding Judge of the Court. The referee shall determine all issues in accordance with existing case law and statutory law of the State of California, including without limitation the rules of evidence applicable to proceedings at law. The referee is empowered to enter equitable and legal relief, and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision, and pursuant to CCP §644 the referee's decision shall be entered by the Court as a judgment or order in the same manner as if tried by the Court. The final judgment or order from any decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial if granted, will be a reference hereunder. AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, EACH OF THE BORROWER AND THE LENDER AGREES THAT ALL CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT A JURY.

35. **Time of the Essence**. Time is of the essence with respect to this Note.

36. **Modifications**. Modifications (if any) to this Note ("Modifications") are set forth on Schedule B attached to this Note. In the event of a prohibited transfer under the terms of the Trust Deed, some or all of the Modifications to this Note may be modified or rendered void by Lender at its option by notice to Borrower or such transferee.

37. **Attached Schedules**. The following Schedules are attached to this Note and are incorporated by reference herein as if more fully set forth in the text hereof:

**Schedule A –Interest Payments**

**Schedule B – Modifications to Multifamily Construction Note**

**Schedule C – Form of Notice of Prepayment Pursuant to Section 10(f)**

The terms of this Note are modified and supplemented as set forth in said Schedules. To the extent of any conflict or inconsistency between the terms of said Schedules and the text of this Note, the terms of said Schedules shall be controlling in all respects.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Multifamily Construction Note or caused this Multifamily Construction Note to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER:**

**BERRELLESA PALMS, L.P.**,
a California limited partnership

By: 112 Alves Lane, Inc.,
a California nonprofit public benefit corporation,
its General partner

By: _____
Daniel Sawislak, Executive Director

Pay to the Order of:

**BANK OF THE WEST**, a California banking corporation

as assignee under that certain Funding Loan Agreement dated as of December 1, 2012

WITHOUT RECOURSE

**GOVERNMENTAL LENDER:**

COUNTY OF CONTRA COSTA, CALIFORNIA,
a political subdivision and body corporate and
politic

By: _____
Catherine Kutsuris,
Director, Department of Conservation
& Development

## SCHEDULE A

## INTEREST PAYMENTS

Except as provided in Paragraphs 8 and 14 of this Note, interest ("**Note Interest**") shall accrue on the unpaid principal of this Note from the Closing Date until paid in full at an annual rate (the "**Interest Rate**") as follows:

1. **Interest Rate**. Note Interest shall accrue as follows:

Adjustable Rate. Interest shall accrue at the Adjustable Rate.

Interest Rate Adjustment. The Adjustable Rate shall be determined by Lender on each Rate Determination Date and shall be adjusted on each Payment Change Date until the Maturity Date. Accrued interest on this Note shall be paid in arrears.

Maximum Rate. Notwithstanding any other provision of this Note to the contrary, Note Interest shall not exceed the Maximum Rate, as the Maximum Rate may change in accordance with this Note.

Interest Accrual. Note Interest shall be computed on the basis of the actual number of days in the period in respect of which payment is being made, divided by 365 (or, if any portion of that period falls in a leap year, the sum of (i) the actual number of days in that portion of the period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the period falling in a non-leap year divided by 365).

2. **Definitions**. For purposes of this Schedule A, the following terms shall have the meanings set forth below:

"**Accrual Period**" means the period commencing on the first calendar day of each month and continuing to but excluding the first calendar day of the following month (without adjustment in either case for Business Day payment conventions).

"**Adjustable Rate**" means the sum of (i) One-Month LIBOR, and (ii) the Margin, which sum is then rounded to five decimal places.

"**One-Month LIBOR**" shall mean, for any day, the rate of interest per annum that is equal to the one month LIBOR rate appearing on the REUTERS BBA Libor Rates Page 3750 (or on any successor or substitute page of such page) at approximately 11:00 a.m. London time. If Lender determines that use of One-Month LIBOR would violate any applicable law or regulation, or if One-Month LIBOR becomes unavailable, then Lender, in its sole and absolute discretion, will choose a new rate which is based upon comparable information and provide notice to Borrower of such choice.

"**Margin**" means 1.50%.

"**Payment Change Date**" means the first day of the next succeeding Accrual Period until this Note is repaid in full.

"**Rate Determination Date**" means the second Business Day prior to the first day of an Accrual Period. For purposes of this definition, "Business Day" means a day on which dealings in U.S. dollar deposits outside of the United States may be carried on by Lender.

"**Required Monthly Payment**" shall have the meaning set forth in Paragraph 3 below.

3. **Monthly Interest Only Payments**. Consecutive monthly installments of interest only, each in the amount of the Required Monthly Payment (defined below), shall be payable on each Loan Payment Date until the Maturity Date. The Required Monthly Payment shall be an amount equal to the Note Interest that has accrued on the unpaid principal balance of this Note during the applicable Accrual Period, and shall change on each Payment Change Date based on the applicable Adjustable Rate and unpaid principal balance.

4. **Notification of Required Monthly Payment**. Before each Payment Change Date, Lender shall notify Borrower (in the manner specified in Section 19 of this Note for giving notices) of any change in the Required Monthly Payment.

## SCHEDULE B

## MODIFICATIONS TO MULTIFAMILY CONSTRUCTION NOTE

The following modifications are made to the text of the Note that precedes this Schedule:

[None]

## SCHEDULE C

## FORM OF NOTICE OF PREPAYMENT PURSUANT TO SECTION 10(f)

December 19, 2012

Berrellesa Palms, L.P.
c/o Resources for Community Development
2220 Oxnard Street
Berkeley, California 94704

Re: Notice of Mandatory Prepayment – Berrellesa Palms (Loan#1060383672)

Ladies and Gentlemen,

This constitutes notice (this "Notice") that Bank of the West (the "Bank") is requiring the mandatory prepayment in full of the Multifamily Construction Note (the "Note"), dated December 19, 2012, from Berrellesa Palms, L.P. to the County of Contra Costa, California, pursuant to Section 10(f) of the Note on April 1, 2015, which is the "Notice Prepayment Date" under the Note.

We would, however draw your attention to the parenthetical in said Section 10(f), which provides that the Bank has the right at any time on or before the date that is thirty (30) days prior to the Notice Prepayment Date to rescind this Notice.

**BANK OF THE WEST**

By: _____
Name: John Denton
Title: Vice President/Manager Community Development Finance

Received and Acknowledged:

**BERRELLESA PALMS, L.P.**,
a California limited partnership

By: 112 Alves Lane, Inc.,
a California nonprofit public benefit corporation,
its General partner

By: _____
Daniel Sawislak, Executive Director

# MULTIFAMILY CONSTRUCTION/PERMANENT NOTE

$2,021,016 December 19, 2012

FOR VALUE RECEIVED, the undersigned ("Borrower") promises to pay to the order of the COUNTY OF CONTRA COSTA, CALIFORNIA ("Governmental Lender"), the maximum principal sum of Two Million Twenty One Thousand Sixteen Dollars and No/100 ($2,021,016), with interest on the unpaid principal balance from time to time outstanding at the annual rate as set forth on Schedule A.

1. **Defined Terms**. As used in this Note, the following terms shall have the following definitions:

(a) "Amortization Commencement Date" means April 1, 2015.

(b) "Borrower Loan Agreement" means that certain Borrower Loan Agreement dated as of December 1, 2012 by and between Borrower and Lender.

(c) "Business Day" means any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in San Francisco, California are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

(d) "Conditions to Conversion" shall have the meaning given to such term in the Borrower Loan Agreement.

(e) "Construction Note" means the Multifamily Construction Note dated December 19, 2012, from the Borrower to the Lender evidencing a portion of the Borrower Loan.

(f) "Conversion Date" shall have the meaning given to such term in the Borrower Loan Agreement.

(g) "Default Rate" shall have the meaning set forth in Section 8 of this Note.

(h) "Earn Out Portion" shall mean a portion of the maximum principal amount of this Note equal to $200,000 or such lesser amount it may be reduced by a prepayment pursuant to Section 10 hereof.

(i) "First Payment Date" means January 1, 2013.

(j) "Funding Lender" means Bank of the West, a California banking corporation.

(k) "Indebtedness" means the principal of, interest on, and any other amounts due at any time under, this Note, the Trust Deed or any other Borrower Loan Document,

including prepayment premiums, late charges, default interest, and advances to protect the security of the Trust Deed as described in Section 2 of the Trust Deed.

(l) "Lender" means the County of Contra Costa, California and any subsequent holder of this Note.

(m) "Loan" or "Borrower Loan" means the loan evidenced by this Note and the Construction Note, the proceeds of which shall be disbursed in accordance with the Borrower Loan Agreement.

(n) "Loan Month" means the period commencing on a Loan Payment Date and ending on the day preceding the next succeeding Loan Payment Date (without adjustment in either case for Business Day conventions).

(o) "Loan Payment Date" means the first Business Day of each month, commencing on the First Payment Date.

(p) "Maturity Date" means the earlier to occur of (i) April 1, 2045, or (ii) any earlier date on which the unpaid principal balance of the Note becomes due and payable, by acceleration or otherwise.

(q) "Maximum Rate" means the lesser of (i) 12% per annum or (ii) the maximum interest rate that may be paid on the Loan under State law.

(r) "Note" or "Borrower Note" means this Multifamily Construction/Permanent Note.

(s) "Note Interest" shall have the meaning set forth in Paragraph 1 of Schedule A to this Note.

(t) "Notice Prepayment Date" means March 1, 2035.

(u) "Fixed Portion" shall mean a portion of the maximum principal amount of this Note equal to $1,821,016.

All other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Borrower Loan Agreement.

2. **Method of Payment**. All payments due under this Note shall be payable to Servicer, or, if there is no Servicer, to the Lender, or its successor. Each such payment shall be made by wire transfer of immediately available funds in accordance with wire transfer instructions that the Lender or Servicer shall supply by Written Notice to the Borrower from time to time.

3. **Payment of Principal and Interest**. Principal and interest shall be paid as follows:

(a) Borrower shall pay all amounts due under this Note at the times and in the amounts set forth herein and in the Borrower Loan Agreement. Borrower shall make its payments under this Note in immediately available funds.

(b) Borrower shall pay monthly payments of interest only, as set forth on Schedule A attached hereto, in successive monthly installments commencing on the First Payment Date and continuing on each Loan Payment Date thereafter until and including the last Loan Payment Date prior to the Amortization Commencement Date. Such payments shall be made to the Servicer, or, if there is no Servicer, to the Lender by 11:00 a.m., San Francisco time, on each Loan Payment Date.

(c) Commencing on the Amortization Commencement Date and continuing on each Loan Payment Date thereafter until and including the Maturity Date, Borrower shall pay monthly payments of principal and interest as set forth on Schedule A attached hereto, in successive monthly installments. Such payments shall be made to the Servicer, or, if there is no Servicer, to the Lender by 11:00 a.m., San Francisco time, on each Loan Payment Date.

(d) Any accrued interest remaining past due may, at Lender's discretion, be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note, and any reference below to "accrued interest" shall refer to accrued interest that has not become part of the unpaid principal balance.

(e) Borrower shall pay all unpaid principal of and interest on this Note on the Maturity Date and any other amounts due under subsection 3(a) hereof. The unpaid principal balance shall continue to bear interest after the Maturity Date at the Default Rate set forth in this Note until and including the date on which it is paid in full.

(f) Any regularly scheduled monthly installment of principal and interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(g) Borrower shall make all payments of principal and interest under this Note without relief from valuation and appraisement laws.

(h) Borrower acknowledges that the calculation of all interest payments shall be made by the Lender, and shall be final and conclusive, absent manifest error.

4. **Application of Payments**. If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable under this Note in any manner and in any order determined by Lender, in Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment

shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security**. The Indebtedness is secured by, among other things, the Trust Deed, and reference is made to the Trust Deed for other rights of Lender as to collateral for the Indebtedness.

6. **Acceleration**. If an Event of Default has occurred and is continuing beyond expiration of applicable notice and cure periods, the entire unpaid principal balance, any accrued interest, the Prepayment Fee payable under Section 10, if any, and all other amounts payable under this Note and any other Borrower Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower (except if notice is required by applicable law, then after such notice). Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge**. If any amount payable under this Note or under the Trust Deed or any other Borrower Loan Document is not received by Lender when such amount is due (unless applicable law requires a longer period of time before a late charge may be imposed, in which event, such longer period shall be substituted), Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to six percent (6.0%) of such amount (unless applicable law requires a lesser amount be charged, in which event such lesser amount shall be substituted). Notwithstanding the foregoing, with regard to each regularly scheduled monthly installment of interest payable pursuant to this Note, such late charge shall not become due and payable to Lender so long as the Borrower makes such payment on or prior to the fifteenth ($15^{th}$) calendar day following the date upon which such payment is due (or the Business Day immediately following such fifteenth (15th) calendar day if such fifteenth ($15^{th}$) calendar day is not a Business Day). Any accrued but unpaid late charges shall be added to and become part of the unpaid principal balance of this Note, shall bear interest at the rate or rates specified in this Note, and shall be secured by the Trust Deed and the other applicable Borrower Loan Documents. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment, and such late charge shall be deemed liquidated damages and not additional interest or a penalty. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 8. Notwithstanding anything to the contrary in any other Borrower Loan Document, if a Servicer has been appointed by Lender, any late charges payable hereunder shall not be remitted to Lender and shall instead be paid directly to Servicer, who shall apply such late charges in accordance with the terms of the applicable servicing agreement. Any action regarding the collection of a Late Charge will be without prejudice to any other rights, and shall not act as a waiver of any other rights that the Servicer, if any, or the Lender may have as provided herein, in the other Borrower Loan Documents, or at law or in equity.

8. **Default Rate**. So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this

Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate per annum (the "Default Rate") equal to the lesser of the Maximum Rate or a rate equal to the Note Interest plus five percent (5%), in each case compounded monthly (computed in accordance with Schedule A in the same manner in which Note Interest is computed). If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, that, during the time that any monthly installment under this Note is delinquent, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent or any other Event of Default has occurred and is continuing, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate as provided above represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of Borrower's delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

9. **Personal Liability of the Borrower.**

(a) Prior to the Conversion Date, Borrower shall be personally liable for all amounts due under this Note. On or after the Conversion Date, except as otherwise provided in this Section 9, neither Borrower nor any of its partners, members and/or managers shall have any personal liability under this Note, the Trust Deed or any other Borrower Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Borrower Loan Documents, and Lender's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be Lender's exercise of its rights and remedies with respect to the Property and any other collateral held by Lender as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's enforcement of its rights against any guarantor of the Indebtedness or any guarantor of any obligations of Borrower.

(b) Borrower shall be personally liable to Lender for the repayment of a portion of the Indebtedness equal to any loss or damage suffered by Lender (the "Losses") as a result of (1) failure of Borrower to pay to Lender upon demand after an Event of Default all Rents to which Lender is entitled under Section 5.1 of the Trust Deed and the amount of all security deposits collected by Borrower from tenants then in residence; (2) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Trust Deed; (3) failure of Borrower to comply with Section 3.10 of the Trust Deed relating to the delivery of books and records, statements, schedules, and reports; (4) fraud or material misrepresentation by Borrower or Guarantor

or any general partner, managing member, manager, officer, director, partner, member, agent or employee of Borrower or Guarantor in connection with the application for or creation of the Indebtedness or any request for any action or consent by or on behalf of Lender; (5) failure to apply Rents, first, to the payment of reasonable operating expenses (other than property management fees that are not currently payable pursuant to the terms of a Management Agreement or any other Borrower Loan Document) and then to amounts ("Debt Service Amounts") payable under this Note, the Construction Note, the Trust Deed or any other Borrower Loan Document (except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a bankruptcy, receivership or similar judicial proceeding, or (ii) with respect to Rents that are distributed on account of any calendar year if Borrower has paid all operating expenses and Debt Service Amounts for that calendar year); (6) failure of Borrower to comply with the provisions of Section 3.2 of the Trust Deed prohibiting the commission of waste or allowing the impairment or deterioration of the Property; or (7) failure of Borrower to obtain and maintain any local real estate tax abatement or exemption required under the Trust Deed, or the reduction, revocation, cancellation or other termination of such abatement or exemption, as a result of any act or omission by or on behalf of Borrower, Guarantor or any of their respective partners, members, managers, directors, officers, agents, employees or representatives.

(c) For purposes of determining Borrower's personal liability under Section 9(b), all payments made by Borrower or any guarantor of this Note with respect to the Indebtedness and all amounts received by Lender from the enforcement of its rights under the Trust Deed shall be applied first to the portion of the Indebtedness for which Borrower has no personal liability.

(d) Borrower shall become personally liable to Lender for the repayment of all of the Indebtedness upon the occurrence of any of the following Events of Default: (1) Borrower's acquisition of any property or operation of any business not permitted by the Trust Deed or (2) a transfer (including, but not limited to, a lien or encumbrance) that is prohibited under Section 4.2 of the Trust Deed, other than a transfer consisting solely of the involuntary removal or involuntary withdrawal of a general partner in a limited partnership or a manager in a limited liability company; or (3) an insolvency event, as described in Section 9.16 of the Borrower Loan Agreement (but only if such event occurs with the consent or active participation of Borrower, General Partner, Guarantor or any Borrower affiliate.

(e) In addition to any personal liability for the Indebtedness, Borrower shall be personally liable to Lender for (1) the performance of all of Borrower's obligations under the Environmental Indemnity Agreement dated as of the date hereof; and (2) any costs and expenses incurred by Lender in connection with the collection of any amount for which Borrower is personally liable under this Section 9, including out of pocket expenses and reasonable fees of attorneys and expert witnesses and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(f) To the extent that Borrower has personal liability under this Section 9, Lender may exercise its rights against Borrower personally without regard to whether Lender has exercised any rights against the Property or any other security, or pursued any rights against any guarantor, or pursued any other rights available to Lender under this Note, the Trust Deed, any other Borrower Loan Document or applicable law. For purposes of this Section 9, the term "Property" shall not include any funds that (1) have been applied by Borrower as required or permitted by the Trust Deed prior to the occurrence of an Event of Default or (2) Borrower was unable to apply as required or permitted by the Trust Deed because of a bankruptcy, receivership, or similar judicial proceeding. To the fullest extent permitted by applicable law, in any action to enforce Borrower's personal liability under this Section 9, Borrower waives any right to set off the value of the Property against such personal liability.

(g) Nothing herein or in the other Borrower Loan Documents shall be deemed to be a waiver of any right which the Lender or the Servicer, if any, may have under Sections 506(a), 506(b), 1111(b) or any other provision of the United States Bankruptcy Code, as such sections may be amended, or corresponding or superseding sections of the Bankruptcy Amendments and Federal Judgeship Act of 1984, to file a claim for the full amount due to the Lender and the Servicer, if any, if applicable hereunder and under the other Borrower Loan Documents or to require that all collateral shall continue to secure the amounts due hereunder and under the other Borrower Loan Documents.

10. **Voluntary and Involuntary Prepayments.**

(a) All prepayments shall include payment of accrued interest on the principal amount so prepaid and shall be applied to payment of interest before application to principal. In the event of partial prepayment, such prepayments shall be applied to principal payments in the inverse order of their maturity.

(b) On or prior to the Conversion Date, the Borrower may prepay the Earn Out Portion in whole or in part without having to pay the Prepayment Fee (as defined in subsection (c)(A) below) with respect to the amount prepaid.

(c) After the Conversion Date, the Borrower may prepay amounts outstanding under this Note as follows:

(A) In whole or in part at any time provided Borrower has given Lender not less than five (5) Business Days prior written notice of Borrower's intention to make such prepayment and pays to Lender the Prepayment Fee (defined below) due as a result. The Prepayment Fee shall also be paid, if Lender, for any other reason, including acceleration or foreclosure, receives all or any portion of the principal of this Note prior to its scheduled payment date. "Prepayment Fee" is an amount equal to the present value of the difference between (A) the amount of interest that would have been paid on the principal amount being repaid at the rate at which Note Interest is calculated and (B) the amount of interest that Lender would earn if the amount of such prepayment of principal was loaned at a rate (the "Prepayment Fee Rate") equal to the Federal

Home Loan Bank of San Francisco Community Investment Program rate having a maturity date most closely matching with the Notice Prepayment Date, plus 1.50%, and such loan was held by Lender until the Notice Prepayment Date (the "Prepayment Formula"). The rate used in the present value calculation shall be Interest Rate (as defined in Schedule A attached hereto). The time period used in the present value calculation shall be a fraction, the numerator of which is the number of days in the period between the date of prepayment and the Notice Prepayment Date, and the denominator of which shall be 360 days.

(B) In no event shall Lender be obligated to make any payment or refund to Borrower, nor shall Borrower be entitled to any setoff or other claim against Lender, should the return which Lender could obtain under the Prepayment Formula exceed the interest that Lender would have received if no prepayment had occurred. All prepayments shall include payment of accrued interest on the principal amount so prepaid and shall be applied to payment of interest before application to principal. A determination by Lender as to the prepayment fee amount, if any, shall be conclusive. In the event of partial prepayment, such prepayments shall be applied to principal payments in the inverse order of their maturity.

(C) Lender shall provide Borrower a statement of the amount payable on account of prepayment. Borrower acknowledges that (A) Lender establishes the Note Interest amount upon the understanding that it is applied to the Permanent Period Amount through the Notice Prepayment Date, and (B) any prepayment may result in Lender incurring additional costs, expenses or liabilities; and Borrower agrees to pay the Prepayment Fee and any other costs, expenses and liabilities actually incurred by Lender associated with such prepayment which are not otherwise included in the Prepayment Fee.

(D) Borrower acknowledges that any voluntary prepayment constitutes an alternative method for Borrower to perform its obligations under this Note, for which the amount due under the Prepayment Formula (whether or not denominated as liquidated damages) is a fair, just and equitable alternate form of compensation to Lender. The failure by Borrower to prepay this Note after giving Lender notice of intention to prepay shall constitute an Event of Default hereunder. Borrower further specifically acknowledges and agrees that if, after the Conversion Date, Borrower shall prepay all or any part of the Indebtedness evidenced by this Note (i) prior to the due date hereof as set forth in this Note for any reason whatsoever, whether such prepayment is voluntary or involuntary, and whether or not such prepayment arises by virtue of the exercise by Borrower of the prepayment privilege expressly reserved in this Note, or (ii) after an Event of Default as defined herein, including, but not limited to, an event of default under the Trust Deed or by reason of acceleration as a result of the Trust Deed, then such prepayment shall include the Prepayment Fee.

(E) Borrower expressly (A) waives any rights Borrower may have under California Civil Code Section 2954.10 to prepay this Note, in whole or in

part, without penalty or fee, upon acceleration of the Maturity Date, and (B) agrees that if for any reason a prepayment is made, the amount calculated pursuant to the Prepayment Formula shall be due and payable in addition to all other sums due and payable. Borrower expressly acknowledges that Lender's agreement to make the loan evidenced by this Note at the interest rate and for the term herein set forth constitutes adequate consideration, given individual weight by Borrower, for the foregoing waiver and Borrower's agreement to pay the Prepayment Fee referred to herein. Borrower acknowledges that it would be extremely difficult, costly and impractical to calculate and ascertain the actual damages suffered by Lender and that the amount provided herein is a reasonable estimate of the amount of such detriment and shall constitute a liquidated amount of the damages incurred solely by reason of such a prepayment prior to the regularly scheduled payment date (without limiting any other damages to which Lender may be entitled by reason of any event of default).

(d) If a mandatory prepayment of any portion of the principal of this Note is made pursuant to Section 3.3 of the Borrower Loan Agreement, a Prepayment Fee calculated pursuant to subsection (c) above shall be payable with respect to any portion of the principal amount of this Note being prepaid that exceeds the Earn Out Portion.

(e) Upon Lender's exercise of any right of acceleration under this Note, Borrower shall pay to Lender, in addition to the entire unpaid principal balance of this Note outstanding at the time of the acceleration, (i) all accrued interest and all other sums due Lender, and (ii) the Prepayment Fee calculated pursuant to subsection (c) above.

(f) The Borrower shall prepay the outstanding principal balance of this Note at the direction of the Lender, in whole or in part, at a prepayment price equal to the outstanding principal balance of this Note prepaid, plus accrued interest plus any other amounts payable under this Note or the other Borrower Loan Documents, upon the occurrence of any event or condition described below:

(1) in whole or in part, if the Property shall have been damaged or destroyed to the extent that it is not practicable or feasible to rebuild, repair or restore the damaged or destroyed property within the period and under the conditions described in the Trust Deed following such event of damage or destruction; or

(2) in whole or in part, if title to, or the use of, all or a portion of the Property shall have been taken under the exercise of the power of eminent domain by any governmental authority which results in a prepayment of this Note under the conditions described in the Trust Deed; or

(3) in whole or in part, to the extent that insurance proceeds or proceeds of any condemnation award with respect to the Property are not applied by Borrower to restoration of the Property in accordance with the provisions of the Trust Deed.

In connection with any such prepayment, the Borrower shall deposit immediately available funds with the Lender no later than 11:00 a.m. San Francisco time, on the date fixed by the Lender, which date shall be communicated by the Lender in writing to the Borrower. To the extent that the Borrower receives any insurance proceeds or condemnation awards that are to be applied to the prepayment of this Note, such amounts shall be applied to the prepayment of this Note. No Prepayment Fee shall be payable with respect to any prepayment required by this Section 10(f).

(g) The Borrower shall prepay the entire outstanding principal balance of this Note, at the direction of the Lender, at a price equal to the outstanding principal balance of the Note, plus (i) accrued interest and any other amounts payable under this Note or the Borrower Loan Agreement through the date of prepayment, and (ii) if caused by an Event of Default, the Prepayment Fee calculated pursuant to subsection (c) above, upon the occurrence of any event or condition described below:

(1) upon the written direction of the Funding Lender no later than the day before (a) any sale of the Project, restructuring of the Borrower or any other event that would cause or be deemed to cause an assumption of obligations of an unrelated party for purposes of Section 1.150-1(d)(2) of the Regulations (any such event referred to herein as a "Transfer") which Transfer would occur within six months of a "refinancing" (as contemplated by such Regulation), or (b) any "refinancing" that would occur within six months of a Transfer; or

(2) upon a Determination of Taxability.

In connection with any such prepayment, the Borrower shall wire transfer immediately available funds by no later than 11:00 a.m., San Francisco time, on the date fixed by the Lender, which date shall be communicated by the Lender in writing to the Borrower.

(h) Any permitted or required prepayment of less than the unpaid principal balance of this Note shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless Lender agrees otherwise in writing.

(i) Funding Lender shall have the right, in its sole discretion, upon ninety (90) days notice, in substantially the form attached hereto as Schedule C (which notice may be rescinded by the Funding Lender on or before the date that is ninety (90) days prior to the Notice Prepayment Date), to require Borrower to repay this Note, together with all amounts due under the Borrower Loan Documents, in full, at any time on or after the Notice Prepayment Date without prepayment premium or penalty.

11. **Costs and Expenses.** To the fullest extent allowed by applicable law, Borrower shall pay all expenses and costs, including, without limitation, out-of-pocket expenses and reasonable fees of attorneys (including, without limitation, in-house attorneys) and expert witnesses and costs of investigation, incurred by Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the

provisions of any of the other Borrower Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. For purposes of Section 9(e) and this Section 11, attorneys' out of pocket expenses shall include, but are not limited to, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses.

12. **Forbearance**. Any forbearance by Lender in exercising any right or remedy under this Note, the Trust Deed, or any other Borrower Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

13. **Waivers**. Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower and all endorsers and guarantors of this Note and all other third party obligors.

14. **Loan Charges**. Neither this Note nor any of the other Borrower Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Borrower Loan Document, whether considered separately or together with other charges provided for in any other Borrower Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

15. **Obligations of the Borrower Absolute and Unconditional**. Subject to Section 9, the obligations of the Borrower to make all payments required under this Note and the other Borrower Loan Documents on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder and under the other Borrower Loan Documents shall be primary, absolute, unconditional and irrevocable, and shall

be paid or performed strictly in accordance with the terms of this Note and the other Borrower Loan Documents under any and all circumstances, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Property or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Property or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Property, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Lender's legal organization or status, or any default of the Lender hereunder or under any other Borrower Loan Document, and regardless of the invalidity of any action of the Lender or the invalidity of any portion of this Note or the other Borrower Loan Documents. Provided further, the obligations of Borrower under this Note and the other Borrower Loan Documents shall not be affected by:

(a) any lack of validity or enforceability of any Borrower Loan Document or any of the Related Documents;

(b) any amendment of, or any waiver or consent with respect to, any of the Borrower Loan Documents or Funding Loan Documents;

(c) the existence of any claim, set-off, defense or other rights which Borrower, General Partner or Guarantor may have at any time against Lender (other than the defense of payment in accordance with the terms of this Note or the other Borrower Loan Documents) or any other Person, whether in connection with this Note or any other Borrower Loan Document, the Funding Loan Documents or any transaction contemplated thereby or any unrelated transaction;

(d) any breach of contract or other dispute between Borrower, General Partner or Guarantor, and Lender; or

(e) any exchange, release or nonperfection of any lien or security interest in any collateral pledged or otherwise provided to secure any of the obligations contemplated herein, in any other Borrower Loan Document or in any Related Document.

The Borrower hereby waives the application to it of the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Note or the other Borrower Loan Documents or which releases or purports to release the Borrower therefrom. Nothing contained herein shall be construed as prohibiting the Borrower from pursuing any rights or remedies it may have against any Person in a separate legal proceeding.

16. **Commercial Purpose.** Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household or agricultural purposes.

17. **Counting of Days**. Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not Business Days.

18. **Notices**. All notices, demands and other communications required or permitted to be given by Lender to Borrower pursuant to this Note shall be in writing, addressed as set forth below, and shall include a reference to "Loan #1060383672." Each notice shall be deemed given on the earliest to occur of (a) the date when the notice is received by the addressee; (b) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (c) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

| | |
|---|---|
| If to the Borrower: | Berrellesa Palms, L.P.<br>c/o Resources for Community Development<br>2220 Oxnard Street<br>Berkeley, California 94704<br>Attention: Executive Director<br>Telephone: (510) 841-4410<br>Facsimile: (510) 548-3502 |
| and with a copy to: | Gubb & Barshay, LLP<br>50 California Street, Suite 3155<br>San Francisco, California 94111<br>Attention: Scott Barshay, Esq.<br>Facsimile: (415) 781-6967 |
| and with a copy to: | Union Bank, N.A.<br>200 Pringle Avenue, Suite 355<br>Walnut Creek, California 94596<br>Attention: CFD Division Head<br>Facsimile: (925) 947-2455 |
| If to the Governmental Lender: | County of Contra Costa<br>Department of Conservation and Development<br>30 Muir Road<br>Martinez, California 94553<br>Attention: Community Development Bond Program Manager<br>Telephone: (925) 674-7888<br>Facsimile: (925) 674-7258 |

| | |
|---|---|
| If to Funding Lender: | Bank of the West<br>NC-B07-3E-I<br>2527 Camino Ramon<br>San Ramon, California 94583<br>Attention: Anita L. Mayer<br>Telephone : (925) 843-4678<br>Facsimile: (323) 837-3866 |
| With a copy to: | Tomasi Salyer Baroway<br>121 SW Morrison Street, Suite 450<br>Portland, Oregon 97204<br>Attention: Valerie Athena Tomasi, Esq.<br>Telephone: (503) 894-9900<br>Facsimile: (971) 544-7236 |

The Borrower or the Lender may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 18. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 18, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 18 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

19. **Payments on Non-Business Day**. If the date for the making of any payment under this Note is not a Business Day, such payment shall be due and payable on the next succeeding Business Day.

20. **Terms of Note Governing Payment Matters Control in the Event of any Conflict**. In the event the provisions of the Borrower Loan Agreement or the other Borrower Loan Documents (other than this Note) conflict with the provisions of this Note which govern the terms of repayment of the Loan or the payment of other amounts due in connection with the Loan (including, without limitation, the provisions of this Note which govern the required payments of principal, interest and other amounts due in connection with the Loan, the manner of payment, the calculation of interest, the payment of the Lender's costs and expenses, the application of payments received by the Lender, the acceleration of amounts owed by the Borrower, late charges, default rates of interest, prepayments, prepayment premiums or maximum rates of interest or similar charges), the provisions of this Note shall govern and control.

21. **Local Law Provisions (California)**. If any Guarantor is liable for only a portion of the Indebtedness, Borrower hereby waives its rights under California Civil Code Section 2822(a) to designate the portion of the Indebtedness that shall be satisfied by Borrower's partial payment.

22. **Determinations by Lender**. Except to the extent expressly set forth in this Note to the contrary, in any instance where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender

under this Note, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

23. **Release; Indemnity**.

(a) *Release*. Borrower covenants and agrees that, in performing any of its rights or duties under this Note, neither the Lender, nor its agents or employees, shall be liable for any losses, claims, damages, liabilities and expenses that may be incurred by any of them as a result of such performance, except that no such party will be released from liability for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

(b) *Indemnity*. Borrower hereby agrees to indemnify and hold harmless the Lender and its agents and employees from and against any and all losses, claims, damages, liabilities and expenses including, without limitation, reasonable attorneys' fees and costs and disbursements, which may be imposed or incurred by any of them in connection with this Note, except that no such party will be indemnified for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

24. **Governing Law**. This Note shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

25. **Consent to Jurisdiction and Venue**. Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Lender's right to bring any suit, action or proceeding relating to matters arising under this Note against Borrower or any of Borrower's assets in any court of any other jurisdiction.

26. **Severability**. The invalidity, illegality or unenforceability of any provision of this Note shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

27. **Remedies Cumulative**. In the event of Borrower's default under this Note, the Lender may exercise all or any one or more of its rights and remedies available under this Note, at law or in equity. Such rights and remedies shall be cumulative and concurrent, and may be enforced separately, successively or together, and the exercise of any particular right or remedy shall not in any way prevent the Lender from exercising any other right or remedy available to the Lender. The Lender may exercise any such remedies from time to time as often as may be deemed necessary by the Lender.

28. **No Agency or Partnership**. Nothing contained in this Note shall constitute Lender as a joint venturer, partner or agent of Borrower, or render Lender liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.

29. **Entire Agreement; Amendment and Waiver**. This Note contains the complete and entire understanding of the parties with respect to the matters covered. This Note may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Note shall be considered as a general waiver.

30. **Further Assurances**. Borrower shall at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that Lender may reasonably request, in order to protect any right or interest granted by this Note or to enable Lender to exercise and enforce its rights and remedies under this Note.

31. **Captions**. The captions of the sections of this Note are for convenience only and shall be disregarded in construing this Note.

32. **Servicer**. Borrower hereby acknowledges and agrees that: (a) from time to time, Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under this Note or the other Borrower Loan Documents, and to otherwise service the Loan and (b) unless Borrower receives written notice from Lender to the contrary, any action or right which shall or may be taken or exercised by Lender may be taken or exercised by such servicer with the same force and effect.

33. **Waiver of Trial by Jury**. THE BORROWER AND THE LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, AND THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW EACH OF THE BORROWER AND THE LENDER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION RELATED TO THIS NOTE OR ANY OTHER DOCUMENT, INSTRUMENT OR TRANSACTION BETWEEN THE PARTIES.

34. **Judicial Reference Provision**. In the event the above waiver of trial by jury is unenforceable, the Borrower and the Lender elect to proceed under the following judicial reference provision. With the exception of the items specified below, any controversy, dispute or claim between the parties relating to this Note or any other document, instrument or transaction between the parties (each, a "Claim"), will be resolved by a reference proceeding in California pursuant to Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to reference. Venue for the reference will be the Superior Court in the County where real property involved in the action, if any, is located, or in a County where venue is otherwise appropriate under law (the "Court"). The following matters

shall not be subject to reference: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including without limitation set-off), (iii) appointment of a receiver, and (iv) temporary, provisional or ancillary remedies (including without limitation writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). The exercise of, or opposition to, any of the above does not waive the right to a reference hereunder.

The referee shall be selected by agreement of the parties. If the Borrower and Lender do not agree, upon request of any party a referee shall be selected by the Presiding Judge of the Court. The referee shall determine all issues in accordance with existing case law and statutory law of the State of California, including without limitation the rules of evidence applicable to proceedings at law. The referee is empowered to enter equitable and legal relief, and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision, and pursuant to CCP §644 the referee's decision shall be entered by the Court as a judgment or order in the same manner as if tried by the Court. The final judgment or order from any decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial if granted, will be a reference hereunder. AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, EACH OF THE BORROWER AND THE LENDER AGREES THAT ALL CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT A JURY.

35. **Time of the Essence**. Time is of the essence with respect to this Note.

36. **Modifications**. Modifications (if any) to this Note ("Modifications") are set forth on Schedule B attached to this Note. In the event of a prohibited transfer under the terms of the Trust Deed, some or all of the Modifications to this Note may be modified or rendered void by Lender at its option by notice to Borrower or such transferee.

37. **Attached Schedules**. The following Schedules are attached to this Note and are incorporated by reference herein as if more fully set forth in the text hereof:

**Schedule A – Principal and Interest Payments**

**Schedule B – Modifications to Multifamily Construction/Permanent Note**

**Schedule C – Form of Notice of Prepayment Pursuant to Section 10(i)**

The terms of this Note are modified and supplemented as set forth in said Schedules. To the extent of any conflict or inconsistency between the terms of said Schedules and the text of this Note, the terms of said Schedules shall be controlling in all respects.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Multifamily Construction/Permanent Note or caused this Multifamily Construction/Permanent Note to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER:**

**BERRELLESA PALMS, L.P.,**
a California limited partnership

By: 112 Alves Lane, Inc.,
a California nonprofit public benefit corporation,
its General partner

By: _____
Daniel Sawislak, Executive Director

Pay to the Order of:

**BANK OF THE WEST**, a California banking corporation

as assignee under that certain Funding Loan Agreement dated as of December 1, 2012

WITHOUT RECOURSE

**GOVERNMENTAL LENDER:**

COUNTY OF CONTRA COSTA, CALIFORNIA,
a political subdivision and body corporate and
politic

By: _____

Catherine Kutsuris,
Director, Department of Conservation
& Development

## SCHEDULE A

## PRINCIPAL AND INTEREST PAYMENTS

Except as provided in Paragraphs 8 and 14 of this Note, interest ("**Note Interest**") shall accrue on the unpaid principal of this Note from the Closing Date until paid in full at an annual rate (the "**Interest Rate**"), and principal shall be due and payable, as follows:

**A.** **Note Interest on the Fixed Portion**. From, and including, the Closing Date, until the Maturity Date, Note Interest shall accrue on the unpaid principal of the Fixed Portion, at an annual rate, as follows:

(a) Fixed Rate. Interest shall accrue at annual rate of four and 19/100 percent (4.19%).

(b) Maximum Rate. Notwithstanding any other provision of this Note to the contrary, Note Interest shall not exceed the Maximum Rate, as the Maximum Rate may change in accordance with this Note.

(c) Interest Accrual. Note Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

**B.** **Note Interest on the Earn Out Portion**.

(a) From, and including, the Closing Date, until the Conversion Date, Note Interest shall accrue on the unpaid principal of the Earn Out Portion, as follows:

(i) Adjustable Rate. Interest shall accrue at the Adjustable Rate.

(ii) Interest Rate Adjustment. The Adjustable Rate shall be determined by Lender on each Rate Determination Date and shall be adjusted on each Payment Change Date until the Maturity Date. Accrued interest on this Note shall be paid in arrears.

(iii) Maximum Rate. Notwithstanding any other provision of this Note to the contrary, Note Interest shall not exceed the Maximum Rate, as the Maximum Rate may change in accordance with this Note.

(iv) Interest Accrual. Note Interest shall be computed on the basis of the actual number of days in the period in respect of which payment is being made, divided by 365 (or, if any portion of that period falls in a leap year, the sum of (i) the actual number of days in that portion of the period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the period falling in a non-leap year divided by 365).

(v) Definitions. For purposes of this Section A(b) of this Schedule A, the following terms shall have the meanings set forth below:

"**Accrual Period**" means the period commencing on the first calendar day of each month and continuing to but excluding the first calendar day of the following month (without adjustment in either case for Business Day payment conventions).

"**Adjustable Rate**" means the sum of (i) One-Month LIBOR, and (ii) the Margin, which sum is then rounded to five decimal places.

"**One-Month LIBOR**" shall mean, for any day, the rate of interest per annum that is equal to the one month LIBOR rate appearing on the REUTERS BBA Libor Rates Page 3750 (or on any successor or substitute page of such page) at approximately 11:00 a.m. London time. If Lender determines that use of One-Month LIBOR would violate any applicable law or regulation, or if One-Month LIBOR becomes unavailable, then Lender, in its sole and absolute discretion, will choose a new rate which is based upon comparable information and provide notice to Borrower of such choice.

"**Margin**" means 1.50%.

"**Payment Change Date**" means the first day of the next succeeding Accrual Period until this Note is repaid in full.

"**Rate Determination Date**" means the second Business Day prior to the first day of an Accrual Period. For purposes of this definition, "Business Day" means a day on which dealings in U.S. dollar deposits outside of the United States may be carried on by Lender.

"**Required Monthly Payment**" shall have the meaning set forth in Paragraph 3 below.

(b) From, and including, the Conversion Date, until the Maturity Date, Note Interest shall accrue on the unpaid principal of the Earn Out Portion, as follows:

(i) Fixed Rate. Interest shall accrue at annual rate equal to the Federal Home Loan Bank of San Francisco Community Investment Program rate having a maturity date most closely matching with the Notice Prepayment Date, in effect on a date to be established by Lender within thirty (30) days of the Conversion Date, plus 1.50%.

(ii) Maximum Rate. Notwithstanding any other provision of this Note to the contrary, Note Interest shall not exceed the Maximum Rate, as the Maximum Rate may change in accordance with this Note.

(ii) Interest Accrual. Note Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

C. **Payments on and after the Amortization Commencement Date**. From, and including, the Amortization Commencement Date, until the Maturity Date, consecutive monthly installments of principal and interest, based upon an amortization schedule of twenty (20) years, assuming a 360-day year comprised of twelve 30-day months, shall be payable on each Loan Payment Date until the entire unpaid principal balance evidenced by this Note is fully paid. Any remaining principal and interest, if not sooner paid, shall be due and payable on the Maturity Date.

## SCHEDULE B

## MODIFICATIONS TO MULTIFAMILY CONSTRUCTION/PERMANENT NOTE

The following modifications are made to the text of the Note that precedes this Schedule:

[None]

## SCHEDULE C

## FORM OF NOTICE OF PREPAYMENT PURSUANT TO SECTION 10(f)

December 19, 2012

Berrellesa Palms, L.P.
c/o Resources for Community Development
2220 Oxnard Street
Berkeley, California 94704

Re: Notice of Mandatory Prepayment – Berrellesa Palms (Loan#1060383672)

Ladies and Gentlemen,

This constitutes notice (this "Notice") that Bank of the West (the "Bank") is requiring the mandatory prepayment in full of the Multifamily Construction/Permanent Note (the "Note"), dated December 19, 2012, from Berrellesa Palms, L.P. to the County of Contra Costa, California, pursuant to Section 10(i) of the Note on March 1, 2035, which is the "Notice Prepayment Date" under the Note.

We would, however draw your attention to the parenthetical in said Section 10(i), which provides that the Bank has the right at any time on or before the date that is ninety (90) days prior to the Notice Prepayment Date to rescind this Notice.

**BANK OF THE WEST**

By: _____
Name: John Denton
Title: Vice President/Manager Community Development Finance

Received and Acknowledged:

**BERRELLESA PALMS, L.P.**,
a California limited partnership

By: 112 Alves Lane, Inc.,
a California nonprofit public benefit corporation,
its General partner

By: _____
Daniel Sawislak, Executive Director

#2012-1762

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

QUINT & THIMMIG LLP
575 Market Street, Suite 3600
San Francisco, CA 94105
Attention: Paul J. Thimmig, Esq.

# REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

**by and between the**

**COUNTY OF CONTRA COSTA, CALIFORNIA,**

**and**

**BERRELLESA PALMS, L.P.,**
**A CALIFORNIA LIMITED PARTNERSHIP**

**dated as of December 1, 2012**

**relating to:**
**$2,021,016**
**County of Contra Costa**
**Multifamily Housing Revenue Construction/Permanent Note,**
**Series 2012B (Berrellesa Palms) and**
**$12,028,984**
**County of Contra Costa**
**Multifamily Housing Revenue Construction Note,**
**Series 2012B (Berrellesa Palms)**

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# REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this "Agreement" or this "Regulatory Agreement"), dated as of December 1, 2012, is by and between the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic of the State of California (together with any successor to its rights, duties and obligations, the "Governmental Lender"), and BERRELLESA PALMS, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder, the "Borrower").

*RECITALS:*

WHEREAS, the Governmental Lender proposes to issue its County of Contra Costa Multifamily Housing Revenue Construction/Permanent Note, Series 2012B (Berrellesa Palms) and its County of Contra Costa Multifamily Housing Revenue Construction Note, Series 2012B (Berrellesa Palms) (collectively, the "Governmental Lender Notes"), in an aggregate principal amount of $14,050,000, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "Act"), with the proceeds of the Governmental Lender Notes to be utilized to fund a loan to the Borrower pursuant to the terms of the Borrower Loan Agreement, dated as of December 1, 2012 (as supplemented and amended from time to time, the "Borrower Loan Agreement"), between the Governmental Lender and the Borrower, in order to enable the Borrower to finance the construction of a multifamily rental housing development known as Berrellesa Palms, consisting of 49 units of senior rental housing located on the site described in Exhibit A hereto (as further described herein, the "Project"); and

WHEREAS, in order to assure the Governmental Lender and the owner of the Governmental Lender Notes that interest on the Governmental Lender Notes will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"), and to satisfy the public purposes for which the Governmental Lender Notes are authorized to be issued under the Act, and to satisfy the purposes of the Governmental Lender in determining to issue the Governmental Lender Notes, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met.

*AGREEMENT:*

NOW, THEREFORE, in consideration of the issuance of the Governmental Lender Notes by the Governmental Lender and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Governmental Lender and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1, in Section 1.01 of the Funding Loan Agreement, dated as of

December 1, 2012, between the Governmental Lender and Bank of the West, as Funding Lender, or in Section 1.1 of the Borrower Loan Agreement (as defined in the Recitals to this Agreement).

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

"Administrator" means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor administrator appointed by the Governmental Lender.

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

"Affordable Rents" means thirty percent (30%) of an amount equal to sixty percent (60%) of the median gross income for the Area, adjusted for household size (as described in the definition of "Lower Income Tenant" in this Section 1), less a utility allowance calculated as set forth in U.S. Treasury Regulation Section 1.42-10.

"Area" means the metropolitan statistical area in which the Project is located.

"Area Median Gross Income" means the median gross income for the Area, as determined by the Secretary of the Treasury in a manner consistent with determination of lower-income families and area median gross income under Section 8 of the Act and Section 3009a of the Housing and Economic Recovery Act of 2008, including adjustments for family size or, if programs under Section 8 are terminated, area median gross income determined under the method in effect immediately before such termination.

"Borrower Loan Agreement" has the meaning given to such term in the first Recital to this Regulatory Agreement.

"CDLAC" means the California Debt Limit Allocation Committee, or successor thereto.

"CDLAC Resolution" means Resolution No. 12-100 adopted by CDLAC on September 26, 2012, with respect to the Project.

"Certificate of Continuing Program Compliance" means the Certificate to be filed by the Borrower with the Administrator, on behalf of the Governmental Lender, and the Funding Lender pursuant to Section 4(e) hereof, which shall be substantially in the form attached as Exhibit F to this Regulatory Agreement, or in such other form as may be provided by the Governmental Lender or the Administrator to the Borrower, or as otherwise approved by the Governmental Lender.

"City" means the City of Martinez, California.

"Closing Date" has the meaning given to the term "Initial Closing Date" in the Funding Loan Agreement.

"Completion Certificate" means the certificate of completion of the Project required to be delivered to the Governmental Lender by the Borrower pursuant to Section 2(i) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

"Completion Date" means the date of completion of the acquisition and construction of the Project, as that date shall be certified as provided in Section 2(i) of this Regulatory Agreement.

"County" means the County of Contra Costa, California.

"FOCUS Program" means (a) the FOCUS Compliance Verification Program (user's guide located at www.housingcompliance.org/contracosta) utilized by the Governmental Lender to verify the Borrower's compliance with various requirements of this Regulatory Agreement; or (b) any similar program used by the Governmental Lender, in substitution for the program described in the preceding clause (a), to verify the Borrower's compliance with various requirements of this Regulatory Agreement.

"Housing Law" means the United States Act of 1937, as amended, or its successor.

"HUD" means the United States Department of Housing and Urban Development, or any successor thereto.

"Inducement Date" means May 8, 2012, being the date of adoption by the Board of Supervisors of the Governmental Lender of Resolution No. 2012/196 expressing the Governmental Lender's intent to issue the Governmental Lender Notes to finance costs of the Project.

"Funding Loan Agreement" means the Funding Loan Agreement, dated as of December 1, 2012, between the County, as Governmental Lender and Bank of the West, as Funding Lender, as it may be supplemented and amended from time to time in accordance with its terms.

"Governmental Lender Annual Fee" means, for the period from the Closing Date to but not including December 1, 2014, $29,000.00; and, thereafter, on each December 1 during the remainder of the Qualified Project Period, commencing December 1, 2014, $4,000.00.

"Governmental Lender Issuance Fee" means $32,179.00.

"Low Income Tenant" means individuals or families whose Adjusted Income does not exceed sixty percent (60%) of Area Median Gross Income; provided, however, that if all the occupants of a Low Income Unit are students (as defined in Section 152(f)(2) of the Code) who fail to be described in Section 42(i)(3)(D) of the Code, the occupants of that Low Income Unit shall in no event be deemed to be "Low Income Tenants." The Adjusted Income of individuals and Area Median Gross Income shall be determined by the Secretary of the Treasury in a manner consistent with determinations of lower income families and Area Median Gross Income under Section 8 of the Housing Law (or, if such program is terminated, under such program in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size as prescribed under Section 8 of the Housing Law.

"Low Income Units" means the units in the Project required to be rented, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a) and 6(a) hereof.

"Manager" means the property manager of the Project.

"Project" means the 49 units of senior rental housing to constitute the development known as Berrellesa Palms, located on the real property site described in Exhibit A hereto, and consisting of those facilities, including the Borrower's fee interest in the real property described in Exhibit A hereto, structures, buildings, fixtures or equipment, as may at any time exist on such real property, the construction of which is to be financed, in whole or in part, from the proceeds of the sale of the Governmental Lender Note or the proceeds of any payment by the Borrower pursuant to the Borrower Loan Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of such facilities.

"Qualified Project Costs" has the meaning given to the term "Qualified Costs of the Project" in the Borrower Loan Agreement.

"Qualified Project Period" means the period beginning on the first day on which at least ten percent (10%) of the units in the Project are first occupied, and ending on the later of (a) the date which is 15 years after the date on which at least fifty percent (50%) of the aggregate of the residential units in the Project are first occupied, (b) the first day on which no Tax-Exempt private activity bond issued with respect to the Project is outstanding, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Law terminates, or (d) the date on which Governmental Lender Note are paid in full; provided that, unless otherwise amended or modified in accordance with the terms hereof, the Qualified Project Period for purposes of this Regulatory Agreement shall be 55 years from the Closing Date, as required by the CDLAC Resolution. For purposes of clause (b), the term "private activity bond" has the meaning contemplated in Section 142(d)(2)(A)(ii) of the Code.

"Regulations" means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

"Regulatory Agreement" means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

"State" means the State of California.

"Tax-Exempt" means with respect to interest on any obligations of a state or local government, including the Governmental Lender Notes, that such interest is excluded from gross income for federal income tax purposes; provided, however, that: (a) such interest may be included in gross income of any owner of any Governmental Lender Note that is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code; and (b) such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

"Tax Counsel" has the meaning given to such term in the Funding Loan Agreement.

"Verification of Income" means a Verification of Income in the form attached as Exhibit E to this Regulatory Agreement or in such other form as (a) is acceptable to the Governmental Lender, or (b) is promulgated by the California Tax Credit Allocation Committee, so long as any such form contains the information needed to assure the Project is in compliance with the requirements of Sections 4 and 6 of this Regulatory Agreement.

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

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

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

Section 2. Representations, Covenants and Warranties of the Borrower. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Governmental Lender or the Funding Lender on the Closing Date are true and correct.

(b) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds of the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement or this Regulatory Agreement.

(c) The Borrower will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the exclusion from gross income for federal income tax purposes or the exemption from California personal income taxation of the interest on the Governmental Lender Notes and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(d) The Borrower will take such action or actions as may be necessary, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Notes.

(e) The proceeds of the loan to the Borrower under the Borrower Loan Agreement will be used to pay costs of the construction of the Project and related costs. The commencement of the construction by the Borrower of the Project occurred after the date which was 60 days prior to the Inducement Date. The Borrower has incurred a substantial binding obligation to expend proceeds of the Borrower Loan pursuant to which the Borrower is obligated to expend at least five percent (5%) of the maximum principal amount of the Borrower Loan.

(f) The Borrower will proceed with due diligence to complete the acquisition and construction of the Project and the full expenditure of the proceeds of the Borrower Loan. The Borrower reasonably expects to expend the full $14,050,000 authorized principal amount of the Borrower Loan for Project Costs by August 1, 2014.

(g) The Borrower's reasonable expectations respecting the total expenditure of the proceeds of the Borrower Loan have been accurately set forth in a certificate of the Borrower delivered to the Governmental Lender on the Closing Date. At all times, the aggregate disbursements of the proceeds of the Borrower Loan will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an amount equal to ninety-seven percent (97%) or more of such disbursements, and less than twenty-five percent (25%) of such disbursements shall have been used to pay for the acquisition of land or an interest therein.

(h) The Borrower will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds from the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement, this Regulatory Agreement, the Act or the Code.

(i) On the Completion Date of the Project, the Borrower will submit to the Governmental Lender (with a copy to the Funding Lender) a duly executed and completed Completion Certificate.

(j) The Borrower acknowledges that the Governmental Lender may appoint an Administrator other than the Governmental Lender to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Governmental Lender or the Administrator to deliver to any such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Governmental Lender.

(k) Within thirty (30) days after the date on which fifty percent (50%) of the dwelling units in the Project are occupied, the Borrower will submit to the Governmental Lender (with a copy to the Funding Lender), and will cause to be recorded in the County Recorder's office, a duly executed and completed Certificate as to Commencement of Qualified Project Period in the form of Exhibit D hereto.

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

(m) All of the proceeds of the Funding Loan and earnings from the investment of such proceeds will be used to pay costs of the Project; and no more than two percent (2%) of the proceeds of the Funding Loan will be used to pay Costs of Issuance.

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

(o) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Tax Certificate.

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

(q) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Governmental Lender Notes and the Borrower Loan Documents to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to issue the Governmental Lender Notes in order to provide funds to assist the Borrower in acquiring and constructing the Project.

(r) Notwithstanding the provisions of Section 8.52 of the Borrower Loan Agreement, and in addition thereto, the Borrower agrees to obtain a written report from an independent firm with experience in calculating excess investment earnings for purposes of Section 148(f) of the Code, not less than once on or about each five year anniversary of the Closing Date and within thirty (30) days of the date the Governmental Lender Notes have been paid in full, determining that either (i) no excess investment earnings subject to rebate to the federal government under Section 148(f) of the Code have arisen with respect to the Governmental Lender Notes in the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Notes, have arisen since the last five-year report); or (ii) excess investment earnings have so arisen during the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Notes, have arisen since the last five-year report), and specifying the amount thereof that needs to be rebated to the federal government and the date by which such amount needs to be so rebated. The Borrower shall provide a copy of each report prepared in accordance with the preceding sentence to the Governmental Lender, each time within one week of its receipt of the same from the independent firm that prepared the respective report.

Section 3. Qualified Residential Rental Project. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired, constructed and operated for the purpose of providing multifamily residential rental property for seniors. The Borrower will own, manage and operate the Project as a project to provide multifamily residential rental

property for seniors comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project are and will be similarly constructed units, and each dwelling unit in the Project contains complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a household, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis and the Borrower will not rent any of the units for a period of less than thirty (30) consecutive days, and none of the dwelling units in the Project will at any time be leased or rented for use as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period (except that the Borrower may obtain final map approval and the Final Subdivision Public Report from the California Department of Real Estate and may file a condominium plan with the City of Martinez).

(e) All of the dwelling units in the Project will be available for rental during the Qualified Project Period on a continuous basis to members of the general public, on a first-come first-served basis, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except (i) not more than one unit may be set aside for resident manager or other administrative use, (ii) to the extent that dwelling units are required to be leased or rented to Low Income Tenants hereunder, and (iii) to the extent units in the Project are required to be leased to seniors or otherwise pursuant to the documents evidencing and otherwise related to the Subordinate Debt.

(f) The Project site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the facilities of the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) The Borrower shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSI), physical disability, age (except as may be required under any of the documents described in Section 3(e)(iii)), national origin or marital status in the rental, lease, use or occupancy of the Project or in connection with the

employment or application for employment of persons for the operation and management of the Project.

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

(i) The Borrower will not sell dwelling units within the Project.

(j) In accordance with Section 147(b) of the Code, the average maturity of the Governmental Lender Notes does not exceed 120% of the average reasonably expected economic life of the facilities being financed by the Governmental Lender Notes.

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

The Governmental Lender hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Section 4. Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code, the Borrower hereby represents, warrants and covenants as follows:

(a) During the Qualified Project Period, not less than forty percent (40%) of the units in the Project will be occupied by, or held vacant and available for occupancy by, Low Income Tenants. For the purposes of this paragraph (a), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Tenant of the same household size, the next available unit of comparable

or smaller size in the same building (within the meaning of Section 42 of the Code) must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant. Until such next available unit is rented to a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the Low Income Unit requirements of Section 4(a) hereof (but shall not be so deemed to continue to be a Low Income Tenant upon the rental of an available unit of comparable or smaller size to a tenant who is not a Low Income Tenant).

(c) For the Qualified Project Period, the Borrower will obtain, complete, and maintain on file Verification of Income certifications for each Low Income Tenant, including (i) a Verification of Income dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Verification of Income with respect to each Low Income Tenant within thirty days before or after the anniversary of such tenant's initial occupancy of a unit in the Project. In lieu of obtaining an annual Verification of Income, the Borrower may, with respect to any particular twelve-month period ending December 1 of each year, deliver to the Administrator no later than fifteen (15) days after such date, a certification that as of the respective December 1, no unit in the Project was occupied within the preceding twelve (12) months by a new resident whose income exceeded the limit applicable to Low Income Tenants upon admission to the Project. The Administrator may at any time and in its sole and absolute discretion notify the Borrower in writing that it will no longer accept certifications of the Borrower made pursuant to the preceding sentence and that the Borrower will thereafter be required to obtain annual Verifications of Income for tenants.

The Borrower also will provide such additional information as may be required in the future by the State of California, by the Governmental Lender, by CDLAC and by the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. Upon request of the Administrator or the Governmental Lender, copies of Verification of Income for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be submitted to the Administrator or the Governmental Lender, as requested.

The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Governmental Lender.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit any duly authorized representative of the Governmental Lender, the Administrator, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(e) The Borrower will prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period rent rolls and other information required by the FOCUS Program. The Borrower will also prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period to the Administrator (with a copy to the Funding Lender), a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the aggregate of the dwelling units of the Project which were occupied or deemed occupied, pursuant to subsection (a) hereof, by Low Income Tenants during the preceding applicable quarterly period; and (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement, or (B) a default has occurred, in which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such default.

During the Qualified Project Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code).

(f) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement. All leases pertaining to Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income; (ii) agrees that the household income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Funding Lender or the Administrator on behalf of the Governmental Lender, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Verification of Income and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof

and that if upon any such certification such tenant's Adjusted Income exceeds the applicable Low Income Tenant income limit under Section 4(b), such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase.

Section 4A. Additional Requirements of the Governmental Lender. In addition to the requirements set forth elsewhere in this Regulatory Agreement and to the extent not prohibited by the requirements set forth in Sections 4, 5 and 6 hereof, the Borrower hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 4A, as follows:

(a) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination upon reasonable notice (which need not be in excess of three Business Days, as defined in the Funding Loan Agreement) and during business hours by representatives of the Governmental Lender.

(b) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. AFDC and SSI), ancestry or handicap in the lease, use or occupancy of the Project (except as required to comply with Section 3(e)(iii)), or in connection with the employment or application for employment of persons for the construction, operation, or management of the Project.

(c) The Borrower shall not permit occupancy in any unit in the Project by more than (i) two persons per bedroom in the unit, plus (ii) one person; and the Borrower shall at all times offer for rent the largest unit then available for the applicable household size (being one bedroom units for 2-3 person households, and two bedroom units for 4-5 person households).

(d) The Borrower shall pay directly to the Governmental Lender (i) on the Closing Date the Governmental Lender Issuance Fee and the Governmental Lender Annual Fee for the period from the Closing Date to but not including December 1, 2014, and (ii) on each December 1, on and after December 1, 2014, the Governmental Lender Annual Fee; without in either case any requirement for notice or billing of the amount due. In addition, the Borrower shall pay to the Governmental Lender promptly following receipt of an invoice that reasonably identifies the relevant expenses and the amounts thereof, any out of pocket expenses incurred by the Governmental Lender in connection with the Governmental Lender Note, the Funding Loan Agreement, this Regulatory Agreement or the Borrower Loan Agreement, including but not limited to any costs related to the FOCUS Program.

(e) The rent limits set forth in Sections 6(b) and 6(f) shall apply to all Low Income Units. In addition, the rental payments paid by Low Income Tenants for the Low Income Units shall not exceed Affordable Rents.

(f) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of units by such prospective tenants.

(g) The Borrower shall submit to the Governmental Lender: (i) rent rolls and other information required by the FOCUS Program on a quarterly basis as specified in Section 4(e), and (ii) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Governmental Lender in order to comply with reporting requirements of the Internal Revenue Service or the State.

(h) The Borrower shall pay to the Governmental Lender, to the extent not paid pursuant to the Borrower Loan Agreement or the Funding Loan Agreement, all of the amounts required by Sections 2.5, 8.33 and 8.34 of (and otherwise under) the Borrower Loan Agreement and shall indemnify the Governmental Lender as provided in Section 9 hereof and Section 8.35 of the Borrower Loan Agreement.

(i) The Governmental Lender may, at its option and at its expense, at any time appoint an Administrator to administer this Agreement or any provision hereof and to monitor performance by the Borrower of all or of any of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with any request by the Governmental Lender to deliver to such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by such administrator as an agent of the Governmental Lender.

(j) The Borrower shall submit its written management policies with respect to the Project, if any, to the Governmental Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Agreement and the requirements of the existing program under Section 8 of the Act, or its successors. The Borrower shall not promulgate management policies which conflict with the provisions of the addendum to the form of lease for the Project prepared by the Housing Authority of Contra Costa County, and shall attach such addendum to leases for tenants which are holders of Section 8 certificates.

(k) The Borrower shall screen and select tenants for desirability and creditworthiness at its discretion; provided, however, that the Borrower shall consider a prospective tenant's rent history for at least the one year period prior to application as evidence of the tenant's ability to pay the applicable rent.

(l) At least six months prior to the expiration of the Qualified Project Period the Borrower shall provide by first-class mail, postage prepaid, a notice to all tenants in the

Low Income Units containing (i) the anticipated date of the expiration of the Qualified Project Period, (ii) any anticipated rent increase upon the expiration of the Qualified Project Period, (iii) a statement that a copy of such notice will be sent to the Governmental Lender, and (iv) a statement that a public hearing may be held by the Governmental Lender on the issue and that the tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Community Development Bond Program Manager of the Department of Conservation and Development of the Governmental Lender.

(m) Notwithstanding Section 1461 of the Civil Code, the provisions of this Section shall run with land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the provisions of this Section.

(n) The Borrower shall not participate in any refunding of the Governmental Lender Notes or the Funding Loan by means of the issuance of bonds or other obligations by any governmental body other than the Governmental Lender.

(o) Each of the requirements of Sections 3, 4, 6 and 7 hereof is hereby incorporated as a specific requirement of the Governmental Lender, whether or not required by California or federal law.

(p) The requirements of Section 6 and this Section 4A shall be in effect for the Qualified Project Period.

Any of the foregoing requirements of the Governmental Lender contained in this Section 4A may be expressly waived by the Governmental Lender in writing, but (i) no waiver by the Governmental Lender of any requirement of this Section 4A shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Governmental Lender Notes for federal income tax purposes; and (ii) any requirement of this Section 4A shall be void and of no force and effect if the Governmental Lender and the Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Governmental Lender Notes to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other State or federal law.

Section 5. Tax-Exempt Status of the Governmental Lender Note. The Borrower and the Governmental Lender, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Borrower and the Governmental Lender will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Governmental Lender Notes and, if either of them should take or permit, or omit to take or cause to be taken,

any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Governmental Lender will file of record such documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Borrower, the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 6. Additional Requirements of the Act. In addition to the requirements set forth elsewhere in this Regulatory Agreement, so long as any of the Governmental Lender Notes are outstanding the Borrower hereby agrees to comply with each of the requirements of the Act applicable to the Project. Without limiting the foregoing, the Borrower agrees as follows:

(a) As provided in Section 52080(a)(1)(B) of the Act, forty percent (40%) or more of the aggregate of the completed residential units in the Project shall be occupied by, or held vacant and available for occupancy by, lower income tenants within the meaning of Section 52080(a)(1) of the Act (it being acknowledged that units required to be set aside for Low Income Tenants pursuant to Section 4(a) may be counted for purposes of satisfying the requirements of this Section 6(a) if the related Low Income Tenants otherwise satisfy the requirements of this Section 6(a)).

(b) The rental payments paid by the occupants of the units described in paragraph (a) of this Section (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed thirty percent of sixty percent (60%) of area median income.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, Low Income Tenants who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Law. The selection criteria applied to certificate holders under Section 8 of the Housing Law shall not be more burdensome than the criteria applied to all other prospective tenants.

(d) The Borrower shall ensure that units occupied as required by paragraph (a) of this Section are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(e) As provided in Section 52080(e) of the Act, the Project may be syndicated after prior written approval of the Governmental Lender. The Governmental Lender shall grant that approval only after it determines that the terms and conditions of the syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause

any of the requirements in this Agreement to be subordinated to the syndication agreement, or (3) shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement. The Governmental Lender hereby acknowledges that this Section 6(e) does not apply to the syndication of federal tax credits for the Project as contemplated by the Borrower's partnership agreement.

(f) Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to Section 6(a) shall remain available to any eligible household occupying a reserved unit at the date of such expiration or termination, at a rent not greater than the amount required by Section 6(b), until the earliest of any of the following occur:

(1) The household's income exceeds one hundred-forty percent (140%) of the maximum eligible income specified in Section 6(a).

(2) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health, safety, occupancy or quiet enjoyment of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.

(3) Thirty years after the date of commencement of the Qualified Project Period.

(4) The Borrower pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(g) Except in the event of foreclosure and prepayment of the Governmental Lender Notes, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, during the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(h) This Section shall not be construed to require the Governmental Lender to monitor the Borrower's compliance with the provisions of paragraph (f), or that the Governmental Lender shall have any liability whatsoever in the event of the failure by the Borrower to comply with any of the provisions of this Agreement.

(i) The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower.

(j) This Regulatory Agreement shall be recorded in the office of the county recorder of the County, and shall be recorded in the grantor-grantee index to the names of the Borrower as grantor and to the name of the Governmental Lender as grantee.

Section 7. CDLAC Requirements. The acquisition, construction and operation of the Project and the financing thereof are and shall be in compliance with the conditions set forth in Exhibit A to the CDLAC Resolution (the "CDLAC Conditions"), as it may be amended, which conditions are incorporated herein by reference and are made a part hereof; provided, however, the Governmental Lender shall have no obligation under this Regulatory Agreement to monitor and enforce the Borrower's compliance with the CDLAC Conditions. The Borrower shall prepare and submit to CDLAC, at the times required by CDLAC, a Certificate of Compliance in substantially the form attached hereto as Exhibit B hereto (or in such other form as CDLAC may require), executed by an authorized representative of the Borrower.

The Borrower acknowledges that the CDLAC Conditions include the following:

(a) 48 of the units in the Project be restricted for a term of 55 years, which units must be rented or held vacant for rental for persons or families whose income is at 50% or below of the Area Median Gross Income.

(b) A minimum of $11,275,000 of public funds will be expended for the Project.

(c) The Project must meet certain sustainable building standards utilizing certain landscaping and construction materials, as more fully provided in paragraph 27 of Exhibit A to the CDLAC Resolution.

The Borrower will promptly provide any information reasonably requested by the Governmental Lender in order for the Governmental Lender to comply with any regulations of CDLAC applicable to the CDLAC Resolution, the CDLAC Conditions, the Governmental Lender Note or the Project, including but not limited to Section 5144 of Article 11 of the CDLAC regulations.

Section 8. Modification of Covenants. The Borrower and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this

Regulatory Agreement may be amended or modified to provide such less restrictive requirements, but only by written amendment signed by the Governmental Lender, in its sole discretion, and the Borrower, and only upon receipt by the Governmental Lender of the written opinion of Tax Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Governmental Lender Notes or violate the requirements of the Act, and is otherwise in accordance with Section 22 hereof.

(c) The Borrower and the Governmental Lender shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Governmental Lender hereby appoints the Funding Lender as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by Tax Counsel, as evidenced by receipt of the opinion required by paragraph (b) above) if either the Borrower or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Borrower, the Funding Lender shall take no action under this subsection (c) without first notifying the Borrower or the Governmental Lender, or both of them, as is applicable, and without first providing the Borrower or the Governmental Lender, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Funding Lender to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender.

Notwithstanding any other provision of this Regulatory Agreement, whenever an opinion of Tax Counsel is required or requested to be delivered hereunder after the Closing Date, the Funding Lender, the Governmental Lender and the Borrower shall accept (unless otherwise directed in writing by the Governmental Lender) an opinion of Tax Counsel in such form and with such disclaimers as may be required so that such opinion will not be treated as a "covered opinion" for purposes of the Treasury Department regulations governing practice before the Internal Revenue Service (Circular 230), 31 CFR Part 10.

Section 9. Indemnification.

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Administrator and each of their respective past, present and future officers, members of the Governmental Lender's Board of Supervisors, directors, officials, employees and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Governmental Lender Notes, the Funding Loan Agreement, the Funding Loan, the Borrower Loan Agreement, the Borrower Loan, this Regulatory Agreement or

the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Governmental Lender Notes or any interest therein;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants) or licensees in connection with 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 or charge upon payments by the Borrower to the Governmental Lender and the Funding Lender hereunder or under the Borrower Loan Agreement, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project;

(iv) any violation of Article VIII of the Borrower Loan Agreement;

(v) the defeasance and/or prepayment, in whole or in part, of any of the Governmental Lender Notes;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for any Governmental Lender Note or any of the documents relating to the Governmental Lender Notes, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for any of the Governmental Lender Notes of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vii) any declaration of taxability of interest on any of the Governmental Lender Notes, or allegations that interest on a Governmental Lender Note is taxable or any regulatory audit or inquiry regarding whether interest on a Governmental Lender Note is taxable; or

(viii) the Funding Lender's administration of the Borrower Loan Documents, or the exercise or performance of any of its powers or duties thereunder or under any of the Funding Loan Documents;

except (A) in the case of the foregoing indemnification of the Funding Lender or any of its respective officers, directors, officials, employees and agents, to the extent such damages are caused by the gross negligence or willful misconduct of an Indemnified Party; or (B) in the case of the foregoing indemnification of the Governmental Lender or any of its officers, members of its Board of Supervisors, officials, employees and agents, to the extent, with respect to any such Indemnified Party, such damages are caused by the willful misconduct of the respective Indemnified Party seeking indemnification. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought

hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and 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. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(b) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant to Section 4A(a), this Section 9 and Section 20 shall survive the final payment or defeasance of the Governmental Lender Note and in the case of the Funding Lender any resignation or removal. The provisions of this Section shall survive the termination of this Regulatory Agreement.

(c) Nothing contained in this Section 9 shall cause the obligation of the Borrower to pay principal and interest on the Borrower Loan or amounts owing with respect to the Borrower Notes to be a recourse obligation of the Borrower.

(d) The obligations of the Borrower under this Section are independent of any other contractual obligation of the Borrower to provide indemnity to the Governmental Lender or otherwise, and the obligation of the Borrower to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Borrower. The Governmental Lender shall be entitled simultaneously to seek indemnity under this Section and any other provision under which it is entitled to indemnity.

Section 10. Consideration. The Governmental Lender has agreed to issue the Governmental Lender Notes to provide funds to lend to the Borrower to finance the acquisition and construction of the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct and operate the Project. In consideration of the issuance of the Governmental Lender Notes by the Governmental Lender, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Governmental Lender and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Governmental Lender Notes, in the exemption from State personal income taxation of interest on the Governmental Lender Notes and in the Tax-Exempt status of the interest on the Governmental Lender Notes. In performing their duties and obligations hereunder, the Governmental Lender, the Funding Lender and the Administrator may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition,

the Governmental Lender, the Funding Lender and the Administrator may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender, the Funding Lender or the Administrator hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Governmental Lender shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Governmental Lender or the Funding Lender by the Borrower with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Sale or Transfer of the Project. For the Qualified Project Period, the Borrower shall not, except as provided below and in accordance with the Borrower Loan Agreement and the Trust Deed, sell, transfer or otherwise dispose of the Project, in whole or in part, without the prior written consent of the Governmental Lender, which consent shall be given as promptly as practicable following: (A) the receipt by the Governmental Lender of evidence acceptable to the Governmental Lender that (1) the Borrower shall not be in default hereunder or under the Borrower Loan Agreement (which may be evidenced by a certificate of the Borrower) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Governmental Lender; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size, rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects contained below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local government requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of, building code violations or significant and material complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document requested by the Governmental Lender with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and the Borrower Loan Agreement, including without limitation an instrument of assumption hereof, and delivery to the Governmental Lender of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee; (C) receipt by the Governmental Lender of an opinion of Tax Counsel addressed to the Governmental Lender and the Funding Lender to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Notes; (D) receipt by the Governmental Lender and Funding Lender of all fees and/or expenses then currently due and payable to the Governmental Lender and Funding Lender; (E) satisfaction of such other conditions or matters as are set forth in the Borrower Loan Agreement and the Trust Deed; and (F) such other

conditions are met as the Governmental Lender may reasonably impose. The Governmental Lender hereby consents to a transfer of the Project by the Borrower to its general partner or its affiliate, if the Governmental Lender receives the documents listed in the preceding sentence. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully and automatically released from its obligations hereunder to the extent such obligations have been assumed by the transferee of the Project. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 12, except that no consent of the Governmental Lender shall be required in the case of any transfer of the Project to a wholly owned subsidiary of the Borrower if any applicable conditions set forth in the Borrower Loan Agreement and any conditions set forth in the Trust Deed are satisfied.

Notwithstanding anything contained in this Section 12 to the contrary, neither the consent of the Governmental Lender nor the delivery of items (A) through (F) of the preceding paragraph shall be required in the case of (a) the execution, delivery and recordation by Borrower of any mortgage or deed of trust encumbering all or any part of the Project, or (b) a foreclosure or deed in lieu of foreclosure by the Funding Lender whereby the Funding Lender or a purchaser at a foreclosure sale becomes the owner of the Project, and nothing contained in this Section 12 shall otherwise affect the right of the Funding Lender or a purchaser at a foreclosure sale to foreclose on the Project or to accept a deed in lieu of foreclosure. The Governmental Lender's consent otherwise required by item (A) of the preceding paragraph shall not be required in connection with any purchase of the Project by a partner of the Borrower as allowed for in the Borrower's partnership agreement, or a sale or transfer of the Project to, or to any wholly owned subsidiary of, Resources for Community Development. In addition, the provisions of this Section 12 shall not apply to (i) the replacement of the managing general partner of the Borrower by an entity formed by or that is a subsidiary of the initial managing general partner of the Borrower, (ii) the withdrawal of any limited partner of the Borrower from its partnership, (iii) any transfer of limited partnership interest in the Borrower and the admission of a substitute limited partner, (iv) any transfer of direct or indirect interests in any limited partner of the Borrower, or (v) any transfer of interests pursuant to the provisions of the Borrower's partnership agreement as in effect from time to time, including but not limited to the removal of a general partner of the Borrower and replacement thereof by an affiliate of a limited partner of the Borrower pursuant to the Borrower's partnership agreement; provided, however, that the Governmental Lender shall receive notice from the Borrower of any transfer of general partner interests.

For the Qualified Project Period, the Borrower shall not: (1) except pursuant to the provisions of this Regulatory Agreement, the Borrower Loan Agreement and the Trust Deed (and upon receipt by the Borrower of an opinion of Tax Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Notes), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of

this Regulatory Agreement, subordinate or encumber any of the Project or grant commercial leases (not including any laundry, cable, management office equipment, resident service (including but not limited to convenience vending, or satellite television) or similar or related leases) of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Lender Notes and discharge of the Funding Loan Agreement, the Borrower Loan Agreement and the Trust Deed.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date that prevents the Governmental Lender and the Funding Lender from enforcing such provisions, or condemnation, foreclosure, transfer of title by deed in lieu of foreclosure, or a similar event, but only if, within a reasonable period, either the Governmental Lender Notes are fully prepaid and no further amounts are owing in respect of the Funding Loan or amounts received as a consequence of such event are used to provide a project which meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in interest to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall

expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Governmental Lender and the Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Borrower hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Lender Notes were issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. Default; Enforcement. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the Governmental Lender or the Funding Lender to the Borrower (with a copy to the Equity Investor), or for a period of thirty (30) days from the date the Borrower should, with due diligence, have discovered such default, then the Governmental Lender or the Funding Lender, acting on its own behalf or on behalf of the Governmental Lender (to the extent directed in writing by the Governmental Lender, subject to the provisions of the Funding Loan Agreement), shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within thirty (30) days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said thirty (30) days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Tax Counsel, the failure to cure said default within thirty (30) days will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Notes. The Governmental Lender and the Funding Lender shall have the right to enforce the obligations of the Borrower under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary in the opinion of Tax Counsel to insure compliance with the Act or the Code.

Any limited partner of the Borrower (including the Equity Investor) shall have the right but not the obligation to cure any Event of Default, and the Governmental Lender and the Funding Lender agree to accept any cure tendered by any such limited partner on behalf of the Borrower within any cure period specified above.

Following the declaration of an Event of Default hereunder the Governmental Lender, or the Funding Lender may, at their respective options, take any one or more of the following steps, in addition to all other remedies provided by law or equity:

(i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender or the Funding Lender hereunder;

(ii) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;

(iii) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder;

(iv) declare a default under the Borrower Loan Agreement and (subject to any applicable cure periods set forth in the Borrower Loan Agreement) proceed with any remedies provided therein; or

(v) order and direct the Borrower in writing to terminate the then manager of the Project and to select a replacement manager reasonably satisfactory to the Governmental Lender within 60 days of such written direction, and to notify the Governmental Lender in writing of the identity of the replacement manager.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

The Funding Lender shall have the right (but no obligation), in accordance with this Section and the provisions of the Funding Loan Agreement, without the consent or approval of the Governmental Lender, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Funding Lender shall give the Governmental Lender written notice of its intended action. After the Funding Loan Agreement has been discharged, the Governmental Lender may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Funding Lender.

All fees, costs and expenses of the Funding Lender and the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under this Regulatory Agreement shall defeat or render invalid the Trust Deed or any like encumbrance upon the Project or any portion of either thereof given in good faith and for value.

Section 18. References to Funding Lender. After the date on which the Funding Loan has been paid in full, all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. (a) The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto to be recorded and filed in the real property records of the County and in such other places as the Governmental Lender or the Funding Lender may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower and the Governmental Lender will file of record such other documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person (other than in any document granting a security interest to the Funding Lender and, provided, however, that no such assignment shall be required in connection with the transfer of the Project to the Funding Lender by foreclosure, deed in lieu of foreclosure or comparable conversion of the Borrower Loan) to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. Payment of Administration Fees. Notwithstanding any prepayment of the Borrower Loan and notwithstanding a discharge of the Borrower Loan Agreement, throughout the term of this Regulatory Agreement, the Borrower shall continue to pay to the Governmental Lender its fees described in Section 4.A.(d) and in the event of default, to the Administrator, the Governmental Lender and to the Funding Lender reasonable compensation for any services rendered by any of them hereunder and reimbursement for all expenses reasonably incurred by any of them in connection therewith.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California.

Section 22. Amendments; Waivers. (a) Except as otherwise provided in Section 8 above, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County, and only upon receipt by the Governmental Lender of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Notes and is not contrary to the provisions of the Act.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel, in order that interest on the Governmental Lender Notes remain Tax-Exempt. The party requesting such amendment shall notify the other party to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Tax Counsel and a request that such Tax Counsel render to the Governmental Lender an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Governmental Lender Notes. This provision shall not be subject to any

provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(c) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses set forth below or at such other addresses as may be specified in writing by the parties hereto.

| | |
|---|---|
| If to the Governmental Lender or the Administrator: | County of Contra Costa<br>Department of Conservation and Development<br>30 Muir Road<br>Martinez, California 94553<br>Attention: Community Development Bond Program Manager |
| If to the Funding Lender: | Bank of the West<br>NC-B07-3E-I<br>2527 Camino Ramon<br>San Ramon, California 94583<br>Attention: Anita L. Mayer |
| with a copy to: | Tomasi Salyer Baroway<br>121 SW Morrison Street, Suite 450<br>Portland, Oregon 97204<br>Attention: Valerie Athena Tomasi, Esq. |
| If to the Borrower: | Berrellesa Palms, L.P.<br>c/o Resources for Community Development<br>2220 Oxford Street<br>Berkeley, California 94704<br>Attention: Executive Director |
| with a copy to: | Gubb & Barshay LLP<br>50 California Street, Suite 3155<br>San Francisco, California 94111<br>Attention: Scott Barshay, Esq. |
| and a copy to: | the Equity Investor |
| If to the Equity Investor: | Union Bank, N.A.<br>200 Pringle Avenue, Suite 355<br>Walnut Creek, California 94596<br>Attention: CDF Division Head |

with a copy to:

Paul Hastings LLP
515 South Flower Street,
Twenty-Fifth Floor
Los Angeles, California 90071
Attention: Kenneth Krug, Esq.

The Governmental Lender, the Administrator, the Funding Lender and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission.

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

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

Section 26. Third Party Beneficiaries; Enforcement. The Funding Lender, the Administrator, the Equity Investor and CDLAC are intended to be and shall each be a third party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions (as defined in Section 7) and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the owner or owners of the Governmental Lender Notes. Pursuant to Section 52080(k) of the Act, the requirements of Section 6 may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the requirements of that Section.

Section 27. The Funding Lender. The Funding Lender shall be entitled, but shall have no duty, to act with respect to enforcement of the Borrower's performance hereunder. The Funding Lender, either on its own behalf or as the agent of and on behalf of the Governmental Lender, may, in its sole discretion, act hereunder and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by the Funding Lender. In connection with any such performance, all provisions of the Funding Loan Agreement and the Borrower Loan Agreement relating to the rights, privileges, powers and protections of the Funding Lender shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Funding Lender in connection with this Regulatory Agreement. Neither the Funding Lender nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct. The Funding Lender may consult with legal counsel selected by it (the reasonable fees of which counsel shall be paid by the Borrower) and any action taken or suffered by it reasonably and in good faith in accordance with the opinion of such counsel shall be full justification and protection to it. The Funding Lender may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing

by or on behalf of the Governmental Lender, or unless it has actual knowledge of noncompliance.

After the date on which no Governmental Lender Note remains outstanding as provided in the Funding Loan Agreement, the Funding Lender shall have no further rights, duties or responsibilities under this Regulatory Agreement, and all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 28. No Interference or Impairment of Loan. Notwithstanding anything herein to the contrary, (i) the occurrence of an event of default under this Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Borrower Loan Documents, except as may be otherwise specified in the Borrower Loan Documents, and shall not impair, defeat or render invalid the lien of the Trust Deed and (ii) neither of the Governmental Lender nor any other person shall:

(a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Borrower Loan;

(b) interfere with or attempt to interfere with or influence the exercise by the Funding Lender of any of its rights under the Borrower Loan Agreement, including, without limitation, the Funding Lender remedial rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Agreement; or

(c) upon the occurrence of an event of default under the Borrower Loan Agreement, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan, it being understood and agreed that the Governmental Lender may not, without the prior written consent of the Funding Lender, on account of any default under this Regulatory Agreement, seek, in any manner, to cause the Borrower Loan to become due and payable, to enforce the Borrower Loan Agreement or to foreclose on the Trust Deed or cause the Funding Lender to foreclose or take any other action under the Borrower Loan Documents, the Funding Loan Documents or any other documents which action would or could have the effect of achieving any one or more of the foregoing actions, events or results.

No person other than the Funding Lender shall have the right to declare the principal balance of the Borrower Loan to be immediately due and payable or to initiate foreclosure or other like action.

The forgoing prohibitions and limitations shall not in any way limit the rights of the Governmental Lender to specifically enforce this Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Code and the Act, and shall not be construed to limit the rights of the Governmental Lender to enforce its rights against the Borrower under the indemnification provisions of the Regulatory Agreement provided that the prosecution of a claim for indemnification shall not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or

composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, construction, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding the above, the provisions of this Section 28 shall not in any way limit or alter the Governmental Lender's authority, power or activities as a governmental regulatory agency pursuant to applicable laws and regulations relating to the Project or otherwise.

Section 29. Limitation on Borrower Liability. Notwithstanding any other provision or obligation to the contrary contained in this Regulatory Agreement, and except for the Borrower's obligations under Section 9 of this Regulatory Agreement (which are not subject to the provisions and limitations of this Section 29) (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Funding Lender or the Governmental Lender and their successors and assigns, is limited to the Borrower's interest in the Project, the revenues therefrom, including the amount held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to the Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, any rights of the Borrower under the Funding Loan Agreement and the Borrower Loan Documents or any other documents relating to the Governmental Lender Notes or any rights of the Borrower under any guarantees relating to the Project), its partners, successors, transferees or assigns and each their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement and the Borrower Loan Agreement or any agreement securing the obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

Section 30. Limited Liability. All obligations of the Governmental Lender incurred under this Regulatory Agreement shall be limited obligations, payable solely and only from Funding Loan proceeds and other amounts derived by the Governmental Lender from the Borrower Loan or otherwise under the Borrower Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. In the event of any conflict between the provisions of this Regulatory Agreement and any agreement referenced in Section 3(e)(iii) hereof, the provisions providing for the most affordable units, with the most affordability, in the Project shall prevail, so long as at all times the requirements of Section 2, 3, 4, 4A, 6 and 7 of this Regulatory Agreement are in any event satisfied. Notwithstanding the

foregoing, a breach or default under any agreement referenced in Section 3(e)(iii) hereof shall not, in itself, constitute a breach or a default under this Regulatory Agreement.

IN WITNESS WHEREOF, the Governmental Lender and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

COUNTY OF CONTRA COSTA

By: _____
Catherine Kutsuris
Director, Department of
Conservation & Development

BERRELLESA PALMS, L.P.,
a California limited partnership

By: 112 Alves Lane, Inc.
a California nonprofit public benefit
corporation, its general partner

By: _____
Daniel Sawislak,
Executive Director

[Signature Page to Regulatory Agreement – Berrellesa Palms]

03007.26:J11900

## NOTARY ACKNOWLEDGMENT

State of California
County of CONTRA COSTA } ss.

On December 17, 2012, before me, Danielle S. Kelly, Notary Public
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Catherine Kutsuris
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

DANIELLE S. KELLY
Commission # 1878319
Notary Public - California
Contra Costa County
My Comm. Expires Jan 29, 2014

Place Notary Seal Above

Signature of Notary Public

### OPTIONAL

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

**Description of Attached Document**

Title or Type of Document: Regulatory Agreement and Declaration of Restrictive Covenants

Document Date: December 1, 2012 Number of Pages: _____

Signer(s) Other Than Named Above: _____

**Capacity(ies) Claimed by Signer**

Signer's Name: Catherine Kutsuris

☐ Individual
☒ Corporate Officer -- Title(s): Director, Department of Conservation & Development
☐ Partner -- ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer is Representing: County of Contra Costa

## NOTARY ACKNOWLEDGMENT

State of California
County of SAN FRANCISCO } ss.

On December 17, 2012 (Date), before me, Nancy Ann Corsaut, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared Daniel Sawislak (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Nancy Ann Corsaut
Signature of Notary Public

ESI1 NANCY ANN CORSAUT COMM. #1867337 Notary Public-California SAN FRANCISCO COUNTY My Comm. Exp. OCT 5, 2013 ESI1

Place Notary Seal Above

### *OPTIONAL*

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

**Description of Attached Document**

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

**Capacity(ies) Claimed by Signer**

Signer's Name: Daniel Sawislak

☐ Individual
☒ Corporate Officer -- Title(s): Executive Director
☐ Partner -- ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

# EXHIBIT A

## DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MARTINEZ, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BLOCK 141, ORIGINAL SURVEY OF THE TOWN OF MARTINEZ, AS PER MAPS ON FILE IN BOOK "D" OF MAPS ON PAGE 83 IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, AND AS SHOWN ON THE "NOTICE OF MERGER- LOT MERGER NO.: LM12-02" RECORDED NOVEMBER 27, 2012 AS INSTRUMENT NO. 2012-301333 OF OFFICIAL RECORDS.

APN: 373-243-001

## EXHIBIT B

## FORM OF CERTIFICATE OF COMPLIANCE (CDLAC RESOLUTION)

Project Name: Berrellesa Palms Apartments
*(If project has changed name since the award of allocation please note the original project name as well as the new project name)*

Name of Bond Issuer: County of Contra Costa

CDLAC Application No.: 12-116

Pursuant to Section 13 of Resolution No. 12-100 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on September 26, 2012, I, _____, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the Resolution.

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

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

_____ The project is currently in the Construction or Rehabilitation phase.

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

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

_____ _____
Signature of Officer Date

_____
Printed Name of Officer

_____
Title of Officer

_____
Phone Number

## EXHIBIT C

## COMPLETION CERTIFICATE

The undersigned hereby certifies that the acquisition and construction of the Project was substantially completed as of _____.

The undersigned hereby further certifies that:

(1) the aggregate amount disbursed on the Borrower Loan to date is $_____;

(2) all amounts disbursed on the Borrower Loan have been applied to pay or reimburse the undersigned for the payment of costs of the Project and none of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than costs of the Project;

(3) at least 97 percent of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs, and less than 25 percent of all such disbursements have been used for the acquisition of land or an interest therein; and

(4) the Borrower is in compliance with the provisions of Section 8.51 of the Borrower Loan Agreement.

Capitalized terms used in this Completion Certificate have the meanings given such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2012, between Berrellesa Palms, L.P., a California limited partnership and the County of Contra Costa, California.

BERRELLESA PALMS, L.P., a California limited partnership

By: _____

Its: _____

# EXHIBIT D

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CONTRA COSTA COUNTY
Department of Conservation and Development
30 Muir Road
Martinez, California 94553
Attention: Community Development Bond Program Manager

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## CERTIFICATE AS TO COMMENCEMENT OF QUALIFIED PROJECT PERIOD

County of Contra Costa
Multifamily Housing Revenue Construction/Permanent Note,
Series 2012B (Berrellesa Palms) and

County of Contra Costa
Multifamily Housing Revenue Construction Note,
Series 2012B (Berrellesa Palms)

The undersigned, on behalf of Berrellesa Palms, L.P., a California limited partnership, hereby certifies that (complete blank information):

10% of the dwelling units in the Project financed in part from the proceeds of the captioned notes were first occupied on _____, 20____.

50% of the dwelling units in the Project financed in part from the proceeds of the captioned notes were first occupied on _____, 20__.

BERRELLESA PALMS, L.P., a California limited partnership

By: _____

Its: _____

# EXHIBIT E

# FORM OF VERIFICATION OF INCOME

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ 1st Recertification ☐ Other:

Effective Date:
Move-in Date:
(YYYY-MM-DD)

## PART I - DEVELOPMENT DATA

Property Name: Berrellesa Palms County: Contra Costa BIN #:
Address: 301 Buckley Street Unit Number: # Bedrooms:

## PART II. HOUSEHOLD COMPOSITION

☐ Vacant

| HH Mbr # | Last Name | First Name | Middle Initial | Relationship to Head of Household | Date of Birth (YYYY/MM//DD) | F/T Student (Y or N) | Last 4 digits of Social Security # |
|---|---|---|---|---|---|---|---|
| 1 | | | | HEAD | | | |
| 2 | | | | | | | |
| 3 | | | | | | | |
| 4 | | | | | | | |
| 5 | | | | | | | |
| 6 | | | | | | | |
| 7 | | | | | | | |

## PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

| HH Mbr # | (A) Employment or Wages | (B) Soc. Security/Pensions | (C) Public Assistance | (D) Other Income |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| TOTALS | $ | $ | $ | $ |

Add totals from (A) through (D), above TOTAL INCOME (E): $

## PART IV. INCOME FROM ASSETS

| Hshld Mbr # | (F) Type of Asset | (G) C/I | (H) Cash Value of Asset | (I) Annual Income from Asset |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | TOTALS: | $ | $ |

Enter Column (H) Total If over $5000 $ X Passbook Rate 2.00% = (J) Imputed Income $

Enter the greater of the total of column I, or J: imputed income TOTAL INCOME FROM ASSETS (K) $

(L) Total Annual Household Income from all Sources [Add (E) + (K)] $

Effective Date of Move-in Income Certification:

Household Size at Move-in Certification:

## HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

| | | | |
|---|---|---|---|
| Signature | *(Date)* | Signature | *(Date)* |
| Signature | *(Date)* | Signature | *(Date)* |

## PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 $

Unit Meets Income Restriction at:
☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐ %

RECERTIFICATION ONLY:
Current Income Limit x 140%: $

Household Income exceeds 140% at recertification:
☐ Yes ☐ No

Current Income Limit per Family Size: $

Household Income at Move-in: $

Household Size at Move-in:

## PART VI. RENT

Tenant Paid Rent $
Utility Allowance $

Rent Assistance: $
Other non-optional charges: $

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) $

Unit Meets Rent Restriction at:
☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ %

Maximum Rent Limit for this unit: $

## PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation* (also attach documentation)

Enter 1-5

*Student Explanation:
1 AFDC / TANF Assistance
2 Job Training Program
3 Single Parent/Dependent Child
4 Married/Joint Return
5 Former Foster Care

## PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

| a. Tax Credit ☐ | b. HOME ☐ | c. Tax Exempt ☐ | d. AHDP ☐ | e. _____ ☐ (Name of Program) |
|---|---|---|---|---|
| See Part V above. | *Income Status*<br>☐ ≤ 50% AMGI<br>☐ ≤ 60% AMGI<br>☐ ≤ 80% AMGI<br>☐ OI** | Income Status<br>☐ 50% AMGI<br>☐ 60% AMGI<br>☐ 80% AMGI<br>☐ OI** | *Income Status*<br>☐ 50% AMGI<br>☐ 80% AMGI<br>☐ OI** | *Income Status*<br>☐ _____<br>☐ _____<br>☐ OI** |

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

## SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE _____ DATE _____

# INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

## Part I - Project Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

| | |
|---|---|
| *Move-in Date | Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD) |
| *Effective Date | Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD) |
| Property Name | Enter the name of the development. |
| County | Enter the county (or equivalent) in which the building is located. |
| BIN # | Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609). |
| Address | Enter the address of the building. |
| Unit Number | Enter the unit number. |
| # Bedrooms | Enter the number of bedrooms in the unit. |
| *Vacant Unit | Check if unit was vacant on December 31 of requesting year. |

## Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

| | | | | | |
|---|---|---|---|---|---|
| H | - | Head of Household | S | - | Spouse |
| A | - | Adult co-tenant | O | - | Other family member |
| C | - | Child | F | - | Foster child(ren)/adult(s) |
| L | - | Live-in caretaker | N | - | None of the above |

**Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.**

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

## Part III - Annual Income

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.**

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List each respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

| | |
|---|---|
| Column (A) | Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business. |
| Column (B) | Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc. |
| Column (C) | Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.). |
| Column (D) | Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household. |
| Row (E) | Add the totals from columns (A) through (D), above. Enter this amount. |

## Part IV - Income from Assets

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.**

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

| | |
|---|---|
| Column (F) | List the type of asset (i.e., checking account, savings account, etc.) |
| Column (G) | Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification). |
| Column (H) | Enter the cash value of the respective asset. |
| Column (I) | Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate). |
| TOTALS | Add the total of Column (H) and Column (I), respectively. |

If the total in Column (H) is greater than $5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

| | |
|---|---|
| Row (K) | Enter the greater of the total in Column (I) or (J) |
| Row (L) | Total Annual Household Income From all Sources Add (E) and (K) and enter the total |
| *Effective Date of Income Certification | Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I. |
| *Household Size at Certification | Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II. |

## HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

### Part V – Determination of Income Eligibility

| | |
|---|---|
| Total Annual Household Income from all Sources | Enter the number from item (L). |
| Current Income Limit per Family Size | Enter the Current Move-in Income Limit for the household size. |
| Household income at move-in<br>Household size at move-in | For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification. |
| Current Income Limit x 140% | For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. **140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%,** etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than<br><br>140% of the current income limit, then the available unit rule must be followed. |
| *Units Meets Income Restriction at | Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project. |

### Part VI - Rent

| | |
|---|---|
| Tenant Paid Rent | Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8). |
| Rent Assistance | Enter the amount of rent assistance, if any. |
| Utility Allowance | Enter the utility allowance. If the owner pays all utilities, enter zero. |
| Other non-optional charges | Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc. |
| Gross Rent for Unit | Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. |
| Maximum Rent Limit for this unit | Enter the maximum allowable gross rent for the unit. |
| Unit Meets Rent Restriction at | Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project. |

### Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

***Full time is determined by the school the student attends.***

### Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

| | |
|---|---|
| Tax Credit | See Part V above. |
| HOME | If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicting the household's designation. |
| Tax Exempt | If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation. |
| AHDP | If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicting the household's designation. |
| Other | If the property participates in any other affordable housing program, complete the information as appropriate. |

## SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

## PART IX. SUPPLEMENTAL INFORMATION

| | |
|---|---|
| Tenant Demographic Profile | Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status. |
| Resident/Applicant Initials | All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren). |

** Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

# TENANT INCOME CERTIFICATION QUESTIONNAIRE

Name: Telephone Number:

_____ ( )

| | |
|---|---|
| ☐ Initial Certification | BIN # |
| ☐ Re-certification | |
| ☐ Other | Unit # |

INCOME INFORMATION

| Yes | No | | MONTHLY GROSS INCOME |
|---|---|---|---|
| ☐ | ☐ | I am self employed. (List nature of self employment) | (use net income from business)<br>$ |
| ☐ | ☐ | I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you:<br>Name of Employer<br>1)<br>2)<br>3) | <br><br>$<br>$<br>$ |
| ☐ | ☐ | I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me. | $ |
| ☐ | ☐ | I receive unemployment benefits. | $ |
| ☐ | ☐ | I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income. | $ |
| ☐ | ☐ | I receive periodic social security payments. | $ |
| ☐ | ☐ | The household receives unearned income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.). | $ |
| ☐ | ☐ | I receive Supplemental Security Income (SSI). | $ |
| ☐ | ☐ | I receive disability or death benefits other than Social Security. | $ |
| ☐ | ☐ | I receive Public Assistance Income (examples: TANF, AFDC) | $ |
| ☐ | ☐ | I am entitled to receive child support payments. | $ |
| ☐ | ☐ | I am currently receiving child support payments.<br>If yes, from how many persons do you receive support? _____ | $ |
| ☐ | ☐ | I am currently making efforts to collect child support owed to me. List efforts being made to collect child support:<br>_____<br>_____ | |
| ☐ | ☐ | I receive alimony/spousal support payments | $ |
| ☐ | ☐ | I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings.<br>If yes, list sources:<br>1)_____<br>2)_____ | $<br>$ |
| ☐ | ☐ | I receive income from real or personal property. | (use net earned income)<br>$ |
| ☐ | ☐ | Student financial aid (public or private, not including student loans)<br>Subtract cost of tuition from Aid received | $ |

## *Asset information*

| YES | NO | | INTEREST RATE | CASH VALUE |
|---|---|---|---|---|
| ☐ | ☐ | I have a checking account(s).<br>If yes, list bank(s)<br>1)<br>2) | <br><br>%<br>% | <br><br>$<br>$ |
| ☐ | ☐ | I have a savings account(s)<br>If yes, list bank(s)<br>1)<br>2) | <br><br>%<br>% | <br><br>$<br>$ |
| ☐ | ☐ | I have a revocable trust(s)<br>If yes, list bank(s)<br>1) | <br><br>% | <br><br>$ |
| ☐ | ☐ | I own real estate.<br>If yes, provide description: | | $ |
| ☐ | ☐ | I own stocks, bonds, or Treasury Bills<br>If yes, list sources/bank names<br>1)<br>2)<br>3) | <br><br>%<br>%<br>% | <br><br>$<br>$<br>$ |
| ☐ | ☐ | I have Certificates of Deposit (CD) or Money Market Account(s).<br>If yes, list sources/bank names<br>1)<br>2)<br>3) | <br><br>%<br>%<br>% | <br><br>$<br>$<br>$ |
| ☐ | ☐ | I have an IRA/Lump Sum Pension/Keogh Account/401K.<br>If yes, list bank(s)<br>1)<br>2) | <br><br>%<br>% | <br><br>$<br>$ |
| ☐ | ☐ | I have a whole life insurance policy.<br>If yes, how many policies | | $ |
| ☐ | ☐ | I have cash on hand. | | $ |
| ☐ | ☐ | I have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years.<br>If yes, list items and date disposed:<br>1)<br>2) | | <br><br>$<br>$ |

STUDENT STATUS

| YES | NO | |
|---|---|---|
| ☐ | ☐ | Does the household consist of all persons who are full-time students (Examples: College/University, trade school, etc.)? |
| ☐ | ☐ | Does the household consist of all persons who have been a full-time student in the previous 5 months? |
| ☐ | ☐ | Does your household anticipate becoming an all full-time student household in the next 12 months? |
| | | If you answered yes to any of the previous three questions are you: |
| ☐ | ☐ | • Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - not SSA/SSI) |
| ☐ | ☐ | • Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program |
| ☐ | ☐ | • Married and filing (or are entitled to file) a joint tax return |
| ☐ | ☐ | • Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual |
| ☐ | ☐ | • Previously enrolled in the Foster Care program (age 18-24) |

UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.

PRINTED NAME OF APPLICANT/TENANT _____ SIGNATURE OF APPLICANT/TENANT _____ DATE _____

WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE) _____ DATE _____

## EXHIBIT F

## CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

## BERRELLESA PALMS

Witnesseth that on this ____ day of _____, 20__, the undersigned, having borrowed certain funds from the COUNTY OF CONTRA COSTA, CALIFORNIA (the "Governmental Lender") for the purpose of financing the above-listed multifamily rental housing development (the "Project"), does hereby certify that:

A. During the preceding twelve-months (i) the Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender, (ii) ____% of the units in the Project were occupied by Low Income Tenants (minimum of 40%).

B. Set forth below is certain information regarding occupancy of the Project as of the date hereof.

| | |
|---|---|
| 1. Total Units: | _____ |
| 2. Total Units Occupied: | _____ |
| 3. Total Units Held Vacant and Available for Rent to Low Income Tenants | _____ |
| 4. Total Low Income Units Occupied: | _____ |
| 5. % of Low Income Units to Total Units % *(equals the Total of Lines 3 and 4, divided by the lesser of Line 1 or Line 2)* | _____% |

C. The units occupied by Low Income Tenants are of similar size and quality to other units and are dispersed throughout the Project.

D. Select appropriate certification: [No unremedied default has occurred under the Regulatory Agreement, the Borrower Notes, Borrower Loan Agreement or the Trust Deed.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

E. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2012, between the Governmental Lender and Berrellesa Palms, L.P., a California limited partnership.

Date: _____

BERRELLESA PALMS, L.P., a California limited partnership

By: _____

Its: _____