

*Loan Agreement for T. Bailey Manor on next page.*

**LOAN AGREEMENT**

among

**CITY OF LOS ANGELES**

as Issuer

**CALIFORNIA BANK & TRUST,**  
a California banking corporation

as initial Bondowner Representative

and

**T. BAILEY MANOR, L.P.,**  
a California limited partnership

as Borrower

Dated as of December 1, 2015

relating to:

\$10,000,000  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(T. Bailey Manor Apartments Project)  
Series 2015G

---

The interests of the Issuer in this Agreement and the Note, excluding the Reserved Rights, have been assigned to [TRUSTEE], as trustee, pursuant to an Assignment of Deed of Trust and Related Documents dated as of December 1, 2015 by the Issuer for the benefit of [TRUSTEE], as trustee.

---

ARTICLE I  
DEFINITIONS

Section 1.01.	Defined Terms .....	2
---------------	---------------------	---

ARTICLE II  
ISSUANCE OF BOND; PAYMENT OF ISSUANCE AND OTHER COSTS; ASSIGNMENTS  
BY ISSUER

Section 2.01.	Issuance of Bond.....	4
Section 2.02.	No Warranty by Issuer .....	5
Section 2.03.	Payment of Costs of Issuance by Borrower .....	5
Section 2.04.	Assignment of Certain Rights.....	6
Section 2.05.	Issuer Fees.....	6
Section 2.06.	Payment of Other Amounts by Borrower .....	6

ARTICLE III  
DISBURSEMENT

Section 3.01.	Disbursement by Bondowner Representative .....	7
Section 3.02.	Developer Fee .....	7
Section 3.03.	Limitations on Disbursements .....	7

ARTICLE IV  
COVENANTS OF BORROWER

Section 4.01.	Indemnity .....	7
Section 4.02.	Certain Government Regulations.....	10
Section 4.03.	Sale of Bond in Secondary Market .....	10

ARTICLE V  
REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

Section 5.01.	Tax Status of Bond.....	11
Section 5.02.	Incorporation of Tax Certificate .....	11
Section 5.03.	Tax Covenants .....	11

ARTICLE VI  
DEFAULT AND REMEDIES

Section 6.01.	Events of Default .....	13
Section 6.02.	Remedies.....	14
Section 6.03.	Waiver of the Right of Setoff.....	15

ARTICLE VII  
PLEDGED ACCOUNTS; RESERVE ACCOUNTS

Section 7.01.	Grant Of Security Interest.....	16
Section 7.02.	[Operating Reserve .....	16
Section 7.03.	Reserve Accounts.....	17

ARTICLE VIII

MISCELLANEOUS

Section 8.01.	No Waiver; Consents .....	17
Section 8.02.	Purpose and Effect of Bondowner Representative’s Approval .....	17
Section 8.03.	Singular and Plural.....	17
Section 8.04.	No Third Parties Benefited .....	17
Section 8.05.	Notices .....	18
Section 8.06.	Authority to File Notices .....	18
Section 8.07.	Actions .....	18
Section 8.08.	Legal and Other Expenses .....	18
Section 8.09.	Applicable Law .....	19
Section 8.10.	Time of Essence .....	19
Section 8.11.	Force Majeure .....	19
Section 8.12.	Integration and Amendments; Conflicts .....	19
Section 8.13.	Binding Effect; Successors and Assigns; Disclosure.....	19
Section 8.14.	Captions .....	19
Section 8.15.	Incorporation.....	20
Section 8.16.	Relationship of Parties; No Fiduciary Duty.....	20
Section 8.17.	Nondiscrimination and Affirmative Action .....	20
Section 8.18.	Americans With Disabilities Act .....	20
Section 8.19.	Business Tax Registration Certificate.....	21
Section 8.20.	Child Support Assignment Orders .....	21
Section 8.21.	Limitation on Issuer’s Liability .....	22
Section 8.22.	Counterparts .....	24

ARTICLE IX

WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.....	24
---	----

ARTICLE X

WAIVER OF SPECIAL DAMAGES .....	25
---------------------------------	----

ARTICLE XI



USA PATRIOT ACT NOTIFICATION .....	26
EXHIBIT A- LEGAL DESCRIPTION	
EXHIBIT B- ACCOUNTS	

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this "Agreement") is made and entered into and dated as of December 1, 2015, by and among the **CITY OF LOS ANGELES** a charter city and municipal corporation in the State of California (together with any successors and assigns, as issuer of the Bond, ("Issuer"); **CALIFORNIA BANK & TRUST**, a California banking corporation, and its successors and assigns ("Bondowner Representative"), and **T. BAILEY MANOR, L.P.**, a California limited partnership ("Borrower").

### WITNESSETH:

WHEREAS, Issuer is a charter city and municipal corporation of the State of California, duly organized and existing under its charter and the laws of the State of California (the "State"); and

WHEREAS, pursuant to Section 248 of the City Charter of the City of Los Angeles and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as amended (collectively, the "Law"), and in accordance with 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 Issuer is empowered to issue its revenue bonds to finance the acquisition, construction, rehabilitation and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, Borrower has requested Issuer to issue its Multifamily Housing Revenue Bond (T. Bailey Manor Apartments Project) Series 2015G (the "Bond") for the purpose of making a loan (the "Loan") to finance, in part, the acquisition and construction of a multifamily rental housing project known as the T. Bailey Manor Apartments, located at 4121 Eagle Rock Boulevard, Los Angeles, California, on land which is more particularly described on Exhibit A (the "Land") which Land, together with the improvements located thereon (the "Improvements") is collectively referred to as the "Property" or the "Project;" and the Bond shall be issued pursuant to an Indenture of Trust dated as of December 1, 2015 by and among Issuer, [TRUSTEE], as trustee ("Trustee") and Bondowner Representative (the "Indenture"); and

WHEREAS, Issuer deems it desirable and in keeping with its purpose to issue the Bond and lend the proceeds thereof to Borrower for the purposes described above under the terms and conditions contained in this Agreement; and

WHEREAS, to evidence the Loan, Borrower is executing in favor of Issuer, that certain promissory note payable to the order of Issuer in the original maximum principal amount of \$10,000,000 (the "Note"), which Note provides for the repayment of the Loan in amounts sufficient to pay, when due, the principal of, premium, if any, and interest on the Bond, and Borrower has executed or caused to be executed and delivered to Issuer the Construction Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") with respect to the Project, which Deed of Trust shall be assigned by Issuer to Trustee as trustee pursuant to that certain Assignment of Deed of Trust and Related Documents (the "Assignment of Deed of Trust"), dated as of even date herewith, to secure, among other things, the payments due under the Note and this Agreement; and

WHEREAS, the execution and delivery of this Agreement and the issuance of the Bond have been duly and validly authorized by Issuer.

NOW, THEREFORE, Issuer, Borrower and Bondowner Representative, each in consideration of the representations, covenants and agreements of the other as set forth herein, mutually represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Defined Terms.** Capitalized terms used in this Agreement and not otherwise defined have the meanings set forth for those terms in the Indenture.

*“Act”* has the meaning set forth in the recitals to this Agreement

*“Affiliate”* means any person or entity directly or indirectly controlling, controlled by, or under direct or indirect common control with, another identified person or entity. A person or entity will be deemed to control a corporation or other entity if such person or entity possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such corporation or other entity, whether through the ownership of voting securities, by contract or otherwise.

*“Agreement”* has the meaning set forth in the preamble to this Agreement.

*“Assignment of Deed of Trust”* has the meaning set forth in the recitals to this Agreement.

*“Bond”* has the meaning set forth in the recitals to this Agreement.

*“Bondowner Representative”* means California Bank & Trust, a California banking corporation and as otherwise defined in Section 1.01 of the Indenture.

*“Borrower”* has the meaning set forth in the preamble to this Agreement.

*“Borrower’s Governing Agreement”* means that [First Amended and Restated Agreement of Limited Partnership], under which the Investor Limited Partner [and Special Limited Partner are] admitted as limited partners of Borrower, which agreement is to be executed and delivered substantially concurrently with the execution and delivery of this Agreement.

*“Code”* has the meaning set forth in the Indenture.

[*“Conversion”* means the commencement of the Permanent Loan upon satisfaction of the Conversion Conditions.]

[*“Conversion Conditions”* has the meaning set forth in the Disbursement Agreement].

[*“Conversion Date”* has the meaning set forth in the Indenture].

*“Deed of Trust”* has the meaning set forth in the recitals to this Agreement.

*“Default”* has the meaning set forth in Section 6.01.

*“Default Rate”* means the Default Rate set forth in the Note and, if more than one Default Rate is set forth in the Note, the highest thereof, but in no event higher than the *“Default Rate”* as defined in the Indenture.

*“Developer Fee”* has the meaning set forth in Section 3.02.

*“Disbursement Agreement”* means that Disbursement Agreement dated as of December 1, 2015 between the Borrower and Bondowner Representative.

*“Disbursements”* means disbursements of funds by Bondowner Representative to pay total Project Costs, which disbursements are made from proceeds of the Loan or other funds held by Bondowner Representative in Pledged Accounts that are available for that purpose.

*“Draw Request”* means a draw request as described in Exhibit B to the Disbursement Agreement.

*“Event of Default”* has the meaning set forth in Section 6.01.

*“Guarantor”* has the meaning set forth in the Disbursement Agreement.

*“Guaranty”* has the meaning set forth in the Disbursement Agreement.

*“Improvements”* has the meaning set forth in the recitals to this Agreement.

*“Indemnified Costs”* means all liabilities, claims, actions, causes of action, judgments, orders, damages, costs, expenses, fines, penalties and losses (including sums paid in settlement of claims and all consultant, expert and legal expenses), incurred by any Indemnified Party in connection with the Loan or the Loan Documents.

*“Indemnified Parties”* means the Trustee, the Issuer and its officers, officials, employees, counsel, attorneys, accountants, financial advisors, staff, members of its governing body and agents, past, present and future, and its successors and assigns, as well as Bondowner Representative, its parents, subsidiaries and other Affiliates, assignees of Bondowner Representative’s interest in the Bond or the Loan, owners of participation or other interests in the Loan, and the officers, directors, employees, attorneys and agents of each of them.

*“Indenture”* has the meaning set forth in the recitals to this Agreement.

*“Investor Limited Partner”* has the meaning set forth in the Disbursement Agreement.

*“Issuer”* has the meaning set forth in the preamble to this Agreement.

*“Land”* has the meaning set forth in the recitals to this Agreement.

*“Loan”* has the meaning set forth in the recitals to this Agreement.

*“Loan Closing”* means the issuance of the Bond and the recording of the Deed of Trust.

*“Loan Documents”* means, collectively, this Agreement, the Disbursement Agreement, the Note, the Deed of Trust, the other Security Documents, the Replacement Reserve Agreement and all other documents that evidence, guarantee or secure the Loan.

*“Loan Proceeds”* means the proceeds of the Loan in the maximum principal amount set forth in this Agreement.

*“Note”* has the meaning set forth in the recitals to this Agreement.

*“Pledged Accounts”* has the meaning set forth in Exhibit B.

*“Project”* has the meaning set forth in the recitals to this Agreement.

*“Property”* has the meaning set forth in the recitals to this Agreement.

*“Regulatory Agreement”* means that Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 2015 among Issuer, Borrower and Trustee.

*“Replacement Reserve Agreement”* means that Replacement Reserve Agreement dated as of December 1, 2015 between the Borrower and Bondowner Representative.

*“Security Documents”* means the Deed of Trust, such assignments of the Project contracts as Bondowner Representative may require and such other security documents as Bondowner Representative may require as security for the Loan, the Note and related obligations.

[*“Special Limited Partner”* has the meaning set forth in the Disbursement Agreement.]

*“State”* has the meaning set forth in the recitals to this Agreement.

*“Treasury Regulations”* means Title 26 of the Code of Federal Regulations.

*“Trustee”* has the meaning set forth in the recitals to this Agreement.

*“Trustee Ongoing Fee”* means that ongoing fee of [ ]% of the outstanding principal amount of the Bond, payable annually in arrears on each December 1, commencing December 1, 2016, with a minimum annual fee of \$[ ].

## ARTICLE II

### ISSUANCE OF BOND; PAYMENT OF ISSUANCE AND OTHER COSTS; ASSIGNMENTS BY ISSUER

**Section 2.01. Issuance of Bond.** Upon execution of this Agreement, the other Loan Documents, the Indenture and the occurrence of all conditions precedent to issuance, or as soon thereafter as practicable, Issuer will execute the Bond and Trustee will authenticate and deliver the Bond to Bondowner Representative, or to its order, upon payment of the purchase price and filing with Bondowner Representative of the opinion of Bond Counsel as to the legality of the Bond and the furnishing of all other documents required to be furnished before such delivery.

The proceeds of the Bond will be deposited with the Trustee and disbursed in accordance with the Indenture and this Agreement.

**Section 2.02. No Warranty by Issuer.** BORROWER AGREES THAT, BECAUSE THE COMPONENTS OF THE PROJECT HAVE BEEN AND ARE TO BE DESIGNATED AND SELECTED BY IT, ISSUER HAS NOT MADE AN INSPECTION OF THE PROJECT OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE, WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY BORROWER. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION 2.02 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT. IN ADDITION, BORROWER ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IT UNDERSTANDS THE NATURE AND STRUCTURE OF THE PROJECT; THAT IT IS FAMILIAR WITH THE PROVISIONS OF ALL OF THE DOCUMENTS AND INSTRUMENTS RELATING TO THE FINANCING OF THE PROJECT TO WHICH IT OR ISSUER IS A PARTY OR OF WHICH IT IS A BENEFICIARY; THAT IT UNDERSTANDS THE RISKS INHERENT IN SUCH TRANSACTIONS, INCLUDING WITHOUT LIMITATION THE RISK OF LOSS OF THE PROJECT; AND THAT IT HAS NOT RELIED ON ISSUER FOR ANY GUIDANCE OR EXPERTISE IN ANALYZING THE FINANCIAL OR OTHER CONSEQUENCES OF SUCH FINANCING TRANSACTIONS OR OTHERWISE RELIED ON ISSUER IN ANY MANNER EXCEPT TO ISSUE THE BOND IN ORDER TO PROVIDE FUNDS FOR THE LOAN.

**Section 2.03. Payment of Costs of Issuance by Borrower.** Borrower agrees that it will provide any and all funds required for the prompt and full payment of all costs of issuance of the Bond not otherwise paid from proceeds of the Bond, including, but not limited to, the following items:

- (a) all reasonable legal (including Bond Counsel and counsel to Borrower, Issuer, Trustee, Bondowner Representative), abstractors', title insurance, financial, engineering, environmental, construction services, survey, appraisal and accounting fees and expenses, administrative fees, printing and engraving costs and other expenses incurred and to be incurred by Borrower, Issuer, Bondowner Representative on or before or in connection with issuance of the Bond;

(b) premiums on all insurance required to be secured and maintained during the term of this Agreement;

(c) all recording fees and other taxes, charges, assessments, license or registration fees of every nature whatsoever incurred and to be incurred in connection with this financing (other than a tax on the income of Issuer or Bondowner Representative);

(d) all reasonable initial fees and expenses of Bondowner Representative, Issuer and Trustee (including, without limitation, Issuer's initial fee referred to in Section 7(n) of the Regulatory Agreement);

(e) [reserved]; and

(f) fees payable to the California Debt Limit Allocation Committee, the California Debt and Investment Advisory Commission and the California Tax Credit Allocation Committee with respect to the Bond and the financing of the Project; and other reasonable costs of issuance of the Bond.

**Section 2.04. Assignment of Certain Rights.** Pursuant to the Indenture and the Assignment of Deed of Trust, the Issuer has assigned the Revenues and has assigned, without recourse or liability, to the Trustee, certain of the Issuer's rights under this Agreement and the Note, including the right to receive certain payments hereunder (but excluding the Reserved Rights, among them the Issuer's rights to payments under Sections 2.05, 2.06, 4.01 and 8.08 of this Agreement, which have not been assigned), and hereby directs Borrower to make payments, required herein or under the Note to be made to Issuer, either to the Trustee or as otherwise directed by Bondowner Representative. Borrower assents to such assignment and will make such payments under this Agreement directly to the Trustee or as otherwise directed by Bondowner Representative without defense or set off by reason of any dispute between Borrower, Issuer, the Trustee, or Bondowner Representative.

**Section 2.05. Issuer Fees.** Borrower shall timely pay the fees payable to the Issuer pursuant to Sections 7(n) and (o) of the Regulatory Agreement as and when billed by the Trustee.

**Section 2.06. Payment of Other Amounts by Borrower.** Borrower shall promptly and timely pay all other amounts due to Issuer, Trustee (including, but not limited to the Trustee Ongoing Fee), Rebate Analyst, Bondowner Representative or any of them under the Indenture, the Note, Disbursement Agreement, Regulatory Agreement and any other of the Loan Documents. [Prior to the Conversion Date], the Borrower shall be personally liable under this Agreement, the Note, the Deed of Trust and all other Loan Documents for the repayment of amounts owing under this Agreement, the Note or for the performance of any other obligations of the Borrower under this Agreement, the Note, the Deed of Trust and the other Loan Documents, but after the Conversion Date, the recourse to Borrower shall be limited as set forth in the Promissory Note.



## ARTICLE III

### DISBURSEMENT

**Section 3.01. Disbursement by Bondowner Representative.** Bondowner Representative shall make or authorize disbursements of the Loan upon satisfaction (or waiver by Bondowner Representative) of the conditions set forth in the Disbursement Agreement.

**Section 3.02. Developer Fee.** Notwithstanding anything to the contrary contained in Borrower's Governing Agreement or any other document, except to the extent otherwise set forth below, Borrower will not pay any developer fee, developer overhead, developer profit or similar amount (collectively, "Developer Fee") to any Affiliate of Borrower in an aggregate amount in excess of \$[ ] prior to the Conversion Date.

**Section 3.03. Limitations on Disbursements.** Notwithstanding recording of the Deed of Trust or anything contained in this Agreement, Bondowner Representative will not be required to make any Disbursement unless and until Borrower has satisfied all applicable conditions to such Disbursement set forth in the Disbursement Agreement. No Disbursement shall be made after December 31, 2018, notwithstanding anything to the contrary contained in any construction or rehabilitation contract or any other document unless there is first delivered to the Trustee an opinion of Bond Counsel to the effect that such Disbursement will not adversely affect the exclusion of interest on the Bond from gross income for federal income tax purposes.

## ARTICLE IV

### COVENANTS OF BORROWER.

Borrower will keep and perform each of the covenants set forth below, except to the extent that Bondowner Representative hereafter specifically waives compliance in writing, which waiver may be given or withheld by Bondowner Representative in its sole discretion.

**Section 4.01. Indemnity.** Borrower releases Issuer, Trustee and their respective officers, directors, agents, officials, employees, counsel, attorneys and agents, past, present and future (and as to Issuer, members of its governing body) and any person who controls Issuer or Trustee within the meaning of the Securities Act, from, and covenants and agrees, without limiting the indemnity provided in the Regulatory Agreement, to indemnify, hold harmless and defend Issuer, Trustee and their respective officers, members, supervisors, directors, officials and employees, counsel, attorneys and agents, past present and future of each of them and any person who controls such party within the meaning of the Securities Act and employees and each of them (each an "Indemnified Party") from and against, any and all losses, claims, damages, demands, liabilities and expenses (including reasonable attorney's fees and expenses), taxes (other than income taxes payable by any party as a result of any fees payable to such parties in connection with the transaction contemplated hereby), causes of action, suits, claims, demands and judgments of any nature, joint or several, by or on behalf of any person arising out of:

- (a) the transactions provided for in the Borrower Documents or the Indenture or otherwise in connection with the Project, the Bonds, the Loan or the execution and



delivery or amendment of any other document entered into in connection with the transactions provided for in the Indenture or the Borrower Documents (provided no indemnity shall be required for claims due to nonpayment of the Note);

(b) the approval of the financing for the Project or the making of the Loan;

(c) the issuance and sale of the Bonds or any certifications or representations made by any person other than the party seeking indemnification;

(d) any and all claims arising in connection with the interpretation, performance, enforcement, breach, default or amendment of the Indenture, the Borrower Documents or any other documents relating to the Project or the Bonds or in connection with any federal or state tax audit or any questions or other matters arising under such documents (provided no indemnity shall be required for claims due to nonpayment of the Note);

(e) the carrying out by Borrower of any of the transactions provided for in the Indenture or the Borrower Documents;

(f) Trustee's acceptance or administration of the trusts created by the Indenture or the exercise of its powers or duties under the Indenture or under this Agreement, the Regulatory Agreement or any other agreements to which it is a party or otherwise in connection with the transactions provided for in the Indenture or the Loan Documents except for claims arising from Trustee's administration where such is a result of actions contrary to Trustee's duties and obligations;

(g) any and all claims arising in connection with the issuance and sale of the Bond or any certifications or representations made by any person other than the Indemnified Party seeking indemnification, including, without limitation, any statement or information made by Borrower with respect to Borrower or the Project in any offering document or materials regarding the initial offering of the Bonds (in connection with their issuance under the Indenture), the Project or Borrower or the Tax Agreement executed by Borrower or any other certificate executed by Borrower which, at the time made, is misleading, untrue or incorrect in any material respect and any untrue statement or alleged untrue statement of a material fact by the Borrower relating to Borrower or the Project contained in any offering material relating to the initial offering of the Bonds, as from time to time amended or supplemented with information provided by Borrower, or arising out of or based upon the omission or alleged omission to state in such offering material a material fact relating to Borrower or the Project required to be stated in such offering material or necessary in order to make the statements in such offering material not misleading, or failure to properly register or otherwise qualify the sale of the Bonds or failure to comply with any licensing or other law or regulation which would affect the manner in which or to whom the Bonds could be sold and the carrying out by Borrower of any of the transactions contemplated by the Indenture or the Borrower Documents;

(h) Borrower's failure to comply with any requirement of this Agreement or the Regulatory Agreement (provided no indemnity shall be required for claims due to nonpayment of the Note);

(i) any act or omission of Borrower or any of its agents, servants, employees or licensees in connection with the Loan or the Project, including violation of any law, ordinance, court order or regulation affecting the Project or any part of it or the ownership, occupancy or use of it (provided no indemnity shall be required for claims due to nonpayment of the Note);

(j) any damage or injury, actual or claimed, of whatsoever kind, cause or character, to property (including loss of use of property) or persons, occurring or allegedly occurring in, on or about the Project or arising out of any action or inaction of Borrower, whether or not related to the Project, or resulting from or in any way connected with the acquisition, rehabilitation and construction or management of the Project, the issuance of the Bond or otherwise in connection with transactions contemplated or otherwise in connection with the Project, the Bond or the execution or amendment of any document relating to the Project or the Bond;

(k) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project; and

(l) any and all claims arising in connection with the operation of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or supervision of work done in or about, or from the planning, design, acquisition, rehabilitation, construction, repair or equipping of, the Project or any part of it, including, but not limited to, the Americans with Disabilities Act, if applicable (as evidenced by an architect's certificate to such effect).

This indemnification shall extend to and include, without limitation, all reasonable costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought with respect to such claim, except:

(i) in the case of the foregoing indemnification of Trustee or any of its related Indemnified Parties to the extent such damages are caused by the negligence or willful misconduct of such Person; and

(ii) in the case of the foregoing indemnification of Issuer or any of its related Indemnified Parties, to the extent such damages are caused by the willful misconduct of the Issuer.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Agreement, Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense of the action or proceeding, including the employment of counsel selected by Borrower, subject to the approval of the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion, provided that Issuer,

and Trustee, as appropriate, 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 of the action or proceeding, and Borrower shall be obligated to pay the reasonable fees and expenses of such separate counsel if (A) the Indemnified Party, upon the advice of counsel, determines that a conflict of interest exists between the interests of the Indemnified Party and the interests of Borrower or (B) such separate counsel is employed with the approval of Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

Borrower understands and agrees that the foregoing release includes all claims of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, and Borrower has read and understands, and hereby waives the benefits of, Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

Borrower acknowledges that it may hereafter discover facts different from or in addition to those which it now knows or believes to be true with respect to the foregoing release by Borrower and agree that the foregoing release shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof.

Nothing in this Section 5.03 shall in any way limit the Borrower's indemnification and other payment obligations set forth in the Regulatory Agreement.

**Section 4.02. Certain Government Regulations.** Borrower will not: (1) be or become subject at any time to any governmental requirements, or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits Bondowner Representative from making any advance or extension of credit to Borrower or from otherwise conducting business with Borrower, or (2) fail to provide documentary and other evidence of Borrower's identity as may be requested by Bondowner Representative at any time to enable Bondowner Representative to verify its identity or to comply with any such applicable requirements, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

**Section 4.03. Sale of Bond in Secondary Market.** Borrower acknowledges the intention of Bondowner Representative to facilitate the marketability of the Bond to a purchaser in the secondary market as permitted by the Indenture, and Borrower agrees to execute such other documents as are required to effectuate such resale of the Bond by Bondowner Representative, provided that the same do not change the economic terms of the transactions described herein or expand the liabilities of the parties hereunder.

## ARTICLE V

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

Borrower promises that each and every representation and warranty set forth below is true, accurate and correct as of the date of this Agreement. Each Draw Request will be deemed to be a reaffirmation, as of the date such Draw Request is submitted to Bondowner Representative, of each and every representation and warranty made by Borrower in this Agreement. Borrower represents and warrants to Issuer and Bondowner Representative as follows:

**Section 5.01. Tax Status of Bond.** Borrower hereby covenants, represents and agrees as follows: (a) that Borrower will not take or permit any action to be taken that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bond and, if it should take or permit any such action, Borrower will take all lawful actions to rescind such action promptly upon having knowledge thereof; and (b) that Borrower will take such action or actions, including amending the Loan, the Regulatory Agreement and this Agreement, as determined reasonably necessary in the opinion of Bond Counsel to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury or the Internal Revenue Service under the Code. Borrower further covenants and agrees that it will direct all investments in compliance with the Code. Borrower covenants and agrees to cause to be calculated by an arbitrage consultant and pay to the Trustee any amounts owing to the United States as rebatable arbitrage in accordance with the procedures set forth in the Tax Certificate and Section 6.07 of the Indenture

**Section 5.02. Incorporation of Tax Certificate.** The covenants, representations, warranties and agreements of Borrower set forth in the Tax Certificate are incorporated by reference herein as if fully set forth herein.

**Section 5.03. Tax Covenants.** Borrower shall comply with the requirements and conditions of the Tax Certificate and the Regulatory Agreement. Without limiting the foregoing and notwithstanding anything to the contrary in this Agreement, Borrower will not take, or permit to be taken on its behalf, any action which would cause interest on the Bond to be included in gross income for federal income tax purposes and will take such reasonable action as may be necessary to continue such exclusion from gross income, including:

(a) Borrower will not use the proceeds of the Bond, or any other funds which may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code, in the manner which will cause the Bond to be an "arbitrage bond" within the meaning of such section, and will comply with the requirements of such Section throughout the term of the Bond;

(b) Borrower will prepare and file any statements required to be filed by it in order to maintain such exclusion;

(c) Borrower will pay to the United States any amount required to be paid by Issuer or Borrower pursuant to Section 148(f) of the Code, at the times, in the amounts and at the places required in order to maintain the exclusion of interest on the Bond from gross income for federal income tax purposes, and Borrower shall compute, or cause to be computed, such amounts annually until the earlier of (i) the date required by the Code, or (ii) the date on which the Bond is no longer outstanding;

(d) not less than ninety five percent (95%) of the net proceeds of the Bond (within the meaning of Section 142(a) of the Code) shall be used to pay Qualified Project Costs;

(e) in order to satisfy the requirements set forth in subpart (4) of the definition of "program investment" that appears in Section 1.148-1(b) of the Treasury Regulations (which requirements must be met in order for the Loan to qualify as a program investment within the meaning of that section), neither Borrower nor any related person will purchase the Bond in an amount related to the amount of the Loan;

(f) no changes will be made to the Project, no actions will be taken by Borrower, and Borrower will not omit to take any actions, which will in any way adversely affect the tax exempt status of the interest on the Bond;

(g) if Borrower becomes aware of any circumstance, event or condition which would result in the interest payable on the Bond becoming includable in gross income for federal income tax purposes, Borrower will promptly give written notice of such circumstance, event or condition to Issuer and Bondowner Representative;

(h) the full amount of each disbursement from the Loan will be applied to pay or to reimburse the Borrower for the payment of Project Costs and, after taking into account any proposed disbursement, (i) at least ninety five percent (95%) of the net proceeds (as defined in Section 150 of the Code) of the Bond will be used to pay Qualified Project Costs to provide a qualified residential rental project (as defined in Section 142(d) of the Code), (ii) less than twenty-five percent (25%) of the net proceeds of the Bond will have been disbursed to pay or to reimburse the Borrower for the cost of acquiring land, (iii) not more than two percent (2%) of the proceeds of the Bond will have been used for Issuance Costs (as defined in the Indenture), and (iv) none of the proceeds of the Bond (as defined for purposes of Section 147(g) of the Code) will be disbursed to provide working capital;

(i) Borrower will cause all of the residential units in the Project to be rented or available for rental on a basis which satisfies applicable requirements of the Law, the Act, the Code and the Regulatory Agreement;

(j) all leases for the Project will comply with all applicable laws and, as applicable for units rented to low and very-low income tenants, as provided in the Regulatory Agreement;

(k) in connection with any lease or grant by Borrower of the use of the Project, Borrower will require that the lessee or user of any portion of the Project not use



that portion of the Project in any manner which would violate the covenants set forth in this Agreement or the Regulatory Agreement;

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

(m) no proceeds of the Bond will be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property was pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment therefor) if construction expenditures (as defined in the Code) with respect to such building equal or exceed fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) financed with proceeds of the Bond; and provided, further, that this limitation shall not apply with respect to any structure other than a building if construction expenditures with respect to such structure equal or exceed one hundred percent (100%) of the portion of the cost of acquiring such structure financed with the proceeds of the Bond.

In any matter relating to the exclusion of interest on the Bond from gross income for federal income tax purposes, the terms and provisions of the Tax Certificate and the Regulatory Agreement shall control in the event of any conflict between this Agreement and the Tax Certificate or Regulatory Agreement, as applicable.

## ARTICLE VI

### DEFAULT AND REMEDIES

**Section 6.01. Events of Default.** Any of the following, without limitation, shall constitute an "Event of Default" (and the term "Default" shall mean any of the following, whether or not any requirement for notice or lapse of time has been satisfied); provided, that any of Borrower's partners (if Borrower is a limited partnership) or members (if Borrower is a limited liability company) may, but are not obligated to, cure a Default and such cure shall be accepted by Bondowner Representative as if made by Borrower:

(a) Any representation or warranty made by Borrower to or for the benefit of Bondowner Representative herein or elsewhere in connection with the Loan, including but not limited to any representation in connection with the security therefor, shall prove to have been incorrect or misleading in any material respect when made (or becomes incorrect or misleading in any material respect thereafter); or

(b) Borrower shall fail to pay any sum when due under this Agreement, the Deed of Trust, the Note or any other Loan Document which is not cured within the time

provided for cure under Section 6.1 of the Disbursement Agreement, provided that the use of any reserve held hereunder, under the Indenture or the Disbursement Agreement to pay any such amount shall not be an Event of Default hereunder; or

(c) Other than a failure described in (b) above, Borrower or any other party thereto (other than Issuer, Trustee or Bondowner Representative) shall fail to perform its obligations under any other covenant or agreement contained in this Agreement, the Deed of Trust, the Note or any other Loan Document, which is not cured within any notice and cure period set forth in the other applicable document.

#### **Section 6.02. Remedies.**

(a) ***Withholding of Disbursements.*** After the occurrence of an Event of Default, Bondowner Representative's obligation to lend or disburse funds under the Loan Documents will automatically terminate, and Bondowner Representative in its sole discretion may withhold any one or more Disbursements. Bondowner Representative may also withhold any one or more Disbursements after the occurrence and during the continuance of a Default unless and until Borrower cures such Default prior to the occurrence of an Event of Default. No Disbursement by Bondowner Representative will constitute a waiver of any Default unless Bondowner Representative agrees otherwise in writing in each instance.

(b) ***Acceleration.*** After the occurrence of an Event of Default, all of Borrower's obligations under the Loan Documents will become immediately due and payable at the option of Bondowner Representative and in Bondowner Representative's sole discretion without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind.

(c) ***Pledged Accounts, Etc.*** After the occurrence and during the continuance of an Event of Default, Bondowner Representative in its sole discretion, may apply the funds in the Pledged Accounts, and any other cash or cash equivalents of Borrower or Guarantor held by or subject to the control of Bondowner Representative (including but not limited to funds drawn under any letter of credit provided to Bondowner Representative in connection with the Loan and funds in the Construction Fund), or any portion thereof to payment of Borrower's obligations under the Loan Documents; provided, however, that such application of funds will not cure or be deemed to cure any Event of Default. Nothing in this Agreement will obligate Bondowner Representative to apply all or any portion of any such funds on account of any Event of Default or to repayment of such obligations. Borrower further agrees, and expressly acknowledges the reliance of Bondowner Representative hereon, that any and all application of the funds in any Pledged Account or the Construction Fund to or upon any of such obligations will be, and will be irrevocably deemed to be, a realization upon and foreclosure of the security interests and liens granted Bondowner Representative in such funds and will not be, or be deemed to be, the exercise of a right of set-off.

(d) ***Continuation of Construction, Etc.*** After the occurrence of any Event of Default, Bondowner Representative will have the right in its sole discretion to enter and

take possession of the Property, whether in person, by agent or by court-appointed receiver, and to take any and all actions that Bondowner Representative in its sole discretion may consider necessary or appropriate to preserve and protect the Property or to complete construction of the Project, including making changes in plans, specifications, work or materials and entering into, modifying or terminating any contractual arrangements, all subject to Bondowner Representative's right at any time to discontinue any work without liability. In addition, with or without taking possession of the Property, Bondowner Representative will have the right but not the obligation to cure any and all defaults by Borrower under any of the Requirements, the Project contracts or other contracts relating to the Property. If Bondowner Representative chooses to complete rehabilitation of the Improvements or to cure any of such defaults, Bondowner Representative will not assume any liability to Borrower or any other person or entity for completing rehabilitation of the Project, or for the manner or quality of their construction, or for curing any such defaults, and Borrower expressly waives any such liability. If Bondowner Representative exercises any of the rights or remedies provided in this subsection, that exercise will not make Bondowner Representative, or cause Bondowner Representative to be deemed to be, a partner or joint venturer of Borrower or a mortgagee in possession. Bondowner Representative in its sole discretion may choose to complete construction in its own name. All sums expended by Bondowner Representative in completing construction or curing Borrower's defaults will be considered to have been an additional Disbursement to Borrower bearing interest at the Default Rate and will be secured by the Loan Documents. For these purposes Bondowner Representative, in its sole discretion, may reallocate any line item or cost category of the budget contained in the Disbursement Agreement, and may make use of any available Borrower's sources of funds.

(e) ***Other Remedies; Cumulative Remedies.*** After the occurrence of an Event of Default, Bondowner Representative may exercise any and all other rights and remedies available to it under any of the Loan Documents or under applicable law. All rights and remedies available to Bondowner Representative will be cumulative and not exclusive.

(f) ***Delegation of Enforcement Rights.*** Issuer acknowledges that Bondowner Representative, by making funds available to Borrower by means of Bondowner Representative's purchase of the Bond under the Indenture is in effect the party making the Loan to Borrower. Accordingly, Issuer hereby delegates to Bondowner Representative the exercise of all the rights and remedies exercisable by either Issuer or Trustee under the Loan Documents (except for the "Reserved Rights" as defined in the Indenture), including, without limitation, approval rights under the Loan Documents and all rights and remedies under the Loan Documents arising from a Default or Event of Default, including those rights and remedies set forth Sections [3.6, 3.9, 3.12 and 3.13] of the Deed of Trust, and as otherwise provided in the Note.

**Section 6.03. Waiver of the Right of Setoff.** Borrower will make all payments provided for under the terms of this Agreement, the Note and the other Loan Documents without offset or deduction. In the event of any litigation by Bondowner Representative to enforce the terms of the Loan Documents, Borrower will not assert any counterclaim against Bondowner



Representative therein (other than compulsory counterclaims), but will assert the same only by means of a separate action.

## ARTICLE VII

### PLEDGED ACCOUNTS; RESERVE ACCOUNTS.

**Section 7.01. Grant Of Security Interest.** Borrower hereby pledges and assigns to Bondowner Representative, and grants Bondowner Representative a security interest in and lien upon each of the Pledged Accounts and all funds from time to time on deposit therein to secure all of Borrower's obligations under the Note, this Agreement and the other Loan Documents. All income taxes payable with respect to income on each Pledged Account, if any, will be paid by Borrower. The tax identification number associated with each Pledged Account will be that of Borrower. Borrower shall execute Bondowner Representative's form of Assignment of Deposit Account with respect to each of the Pledged Accounts.

**Section 7.02. [Operating Reserve.]** At Conversion, Borrower shall have set aside and shall maintain a specific operating reserve fund with respect to the Project (the "Operating Reserve") in the amount of \$[\_\_\_\_], which amount shall be subject to reduction due to disbursements as provided in this Section 7.02 and which fund shall be a Pledged Account meeting the following requirements as well as the requirements set forth in Exhibit B:

(a) The Operating Reserve shall be maintained by the Borrower in one or more accounts (collectively, the "Operating Reserve Account") with California Bank & Trust with disbursements approved by the Investor Limited Partner or its successors and assigns, but shall not be required to be replenished following disbursements.

(b) Pursuant to the terms of Borrower's Governing Agreement, Borrower shall be entitled to use the Operating Reserve funds only to meet operating deficits in connection with the management and/or maintenance of the Property. If Borrower shall at any time draw upon the Operating Reserve to pay such operating deficits, Borrower shall promptly replenish the Operating Reserve from available cash flow from the Property, and the replenishment of the Operating Reserve shall be paid prior to the payment of any partnership or developer fees.

(c) All of Borrower's interest in the Operating Reserve, any interest accrued or accruing thereon, and the account(s) in which those funds are held, shall be pledged to Bondowner Representative as collateral or security for the Loan pursuant to the Deed of Trust and/or any other pledge agreement or other documentation required by (and acceptable to) Bondowner Representative. If a Default or Event of Default shall occur and be continuing and the Investor Limited Partner has not effected cure within any notice cure period afforded to it under the applicable documents, Bondowner Representative shall be entitled to draw upon and utilize all or any portion of the Operating Reserve. The Operating Reserve shall not be terminated unless the Debt Service Coverage Ratio (as defined in the Disbursement Agreement) in the year of termination is at least 1.20 to 1.00 and the Investor Limited Partner has given its written consent to such termination.

(d) Initially, the Operating Reserve shall be audited by Bondowner Representative or its delegee six months following the Conversion Date, and the Operating Reserve shall be audited by Bondowner Representative or its delegee annually thereafter to confirm, among other things, that (i) Borrower has used Operating Reserve funds only for appropriate purposes, and (ii) the Operating Reserve contains no less than the greater of the minimum amount required by the terms of Borrower's Governing Agreement or in connection with any loan secured by the Property other than the Loan. Borrower shall cooperate with Bondowner Representative's audits of the Operating Reserve.]

**Section 7.03. Reserve Accounts.** If Borrower, as a matter of convenience, deposits or causes to be deposited with Bondowner Representative the operating and reserve accounts for the Project, or any of them that do not constitute Pledged Accounts, Bondowner Representative will not have a security interest in any such account unless such a security interest is created by a writing that specifically grants to Bondowner Representative a security interest in the account in question as security for the Loan. Nothing herein constitutes a waiver by Bondowner Representative of any right of setoff against any such account.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**Section 8.01. No Waiver; Consents.** Each consent or waiver by Bondowner Representative of any of its rights or remedies under this Agreement or the other Loan Documents must be in writing and executed by Bondowner Representative, and no waiver will be construed as a continuing waiver. No waiver will be implied from Bondowner Representative's delay in exercising or failure to exercise any right or remedy against Borrower or any security. Consent by Bondowner Representative to any act or omission by Borrower will not be construed as a consent to any other or subsequent act or omission or as a waiver of the requirement for Bondowner Representative's consent to be obtained in any future or other instance.

**Section 8.02. Purpose and Effect of Bondowner Representative's Approval.** Bondowner Representative's approval of any matter in connection with the Loan will be for the sole purpose of protecting Bondowner Representative's security and rights. In no event will Bondowner Representative's approval be a representation of any kind with regard to the matter being approved. Without limiting the generality of the preceding sentence, Borrower acknowledges that Bondowner Representative has no duty to Borrower or any third party regarding compliance with laws or regulations affecting low income housing tax credits or any other tax matter with respect to the Loan or the Project.

**Section 8.03. Singular and Plural.** As used in this Agreement and the other Loan Documents, singular terms include the plural and vice versa as the context may require.

**Section 8.04. No Third Parties Benefited.** This Agreement is made and entered into for the sole protection and benefit of Issuer in its said capacity, Bondowner Representative, Borrower, and their permitted successors and assigns. No trust fund is created by this

Agreement and no other persons or entities will have any right of action under this Agreement or any right to the Loan Proceeds. Bondowner Representative will not be obligated to provide any assurances, commitments, obligations or agreements to or for the benefit of any person or entity other than Borrower.

**Section 8.05. Notices.** All notices given under this Agreement must be in writing and given as provided in the Indenture with respect to the giving of notices thereunder.

**Section 8.06. Authority to File Notices.** Borrower irrevocably appoints Bondowner Representative as its attorney-in-fact, with full power of substitution, to file for record, at Borrower's cost and expense and in Borrower's name, any notices of commencement or completion, notices of cessation of labor, or any other notices that Bondowner Representative in its sole discretion may consider necessary or desirable to protect its security for the Loan, if Borrower fails to do so.

**Section 8.07. Actions.** Issuer, Trustee and Bondowner Representative will have the right, but not the obligation, to commence, appear in, and defend any action or proceeding that might affect its security or its rights, duties or liabilities relating to the Loan, the Property or any of the Loan Documents. Borrower will pay promptly on demand all of Issuer's, Trustee's and Bondowner Representative's reasonable out-of-pocket costs, expenses, and reasonable attorneys' fees and all expenses of Issuer's and Bondowner Representative's respective counsel incurred in those actions or proceedings.

**Section 8.08. Legal and Other Expenses.** Borrower will reimburse Issuer, Trustee and Bondowner Representative within five days after written demand for all costs and expenses reasonably incurred by Issuer, Trustee, Bondowner Representative or either of them in connection with the administration, interpretation, enforcement or performance of the Loan. Without limiting the generality of the foregoing in the event of any Default, or in the event that any dispute arises relating to the interpretation, enforcement or performance of any of the Loan Documents, Issuer, Trustee and Bondowner Representative will be entitled to collect from Borrower on demand all reasonable fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators and court reporters. Without limiting the generality of the foregoing, Borrower will pay all such reasonable costs and expenses incurred in connection with: (a) arbitration or other alternative dispute resolution proceedings, trial court actions and appeals; (b) bankruptcy or other insolvency proceedings of Borrower or other party liable for any of the obligations of this Agreement or the other Loan Documents or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any of the Property; (d) post-judgment collection proceedings; (e) all claims, counterclaims, cross-claims and defenses asserted in any of the foregoing whether or not they arise out of or are related to this Agreement; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing. Whenever Borrower is obligated to pay or reimburse Issuer or Bondowner Representative for any attorneys' fees, those fees will include the allocated costs, as determined by Issuer or Bondowner Representative, as the case may be, for services of in-house counsel.

**Section 8.09. Applicable Law.** This Agreement will be governed by the law of the State, without regard to any provisions or principles thereof relating to choice of law or conflict-of-laws, except as may be preempted by federal law.

**Section 8.10. Time of Essence.** Time is of the essence in the performance of this Agreement and each and every term hereof.

**Section 8.11. Force Majeure.** If the rehabilitation or construction of the Improvements is directly affected and delayed by fire, earthquake or other acts of God, inclement weather that could not reasonably be anticipated by Borrower, strike, lockout, acts of public enemy, riot, insurrection, terrorism, or governmental regulation of the sale or transportation of materials, supplies or labor, Borrower must notify Bondowner Representative in writing within 10 business days after the event occurs that causes the delay.

**Section 8.12. Integration and Amendments; Conflicts.** The Loan Documents (a) integrate all the terms and conditions mentioned in or incidental to this Agreement, (b) supersede all oral negotiations and prior writings with respect to their subject matter including, but not limited to, any loan commitment by Bondowner Representative, and (c) are intended by the parties as the final expression of the entire agreement with respect to the Loan and as the complete and exclusive statement of the terms and conditions agreed to by the parties. No representation, understanding, promise or condition will be enforceable against any party unless it is contained in the Loan Documents. If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including any other Loan Document, the terms, conditions and provisions of this Agreement will control. This Agreement may not be modified or amended except by a written agreement signed by the parties hereto.

**Section 8.13. Binding Effect; Successors and Assigns; Disclosure.** This Agreement will become effective only when it has been executed by Borrower and Bondowner Representative and thereafter will be binding upon and inure to the benefit of Borrower and Bondowner Representative and their respective successors and assigns, except that Borrower will not have the right to assign its rights hereunder or any interest herein without the prior written consent of Bondowner Representative, which may be granted or withheld in Bondowner Representative's sole discretion and otherwise subject to the provisions of Section 13 of the Regulatory Agreement. Bondowner Representative may sell, assign or grant participations in all or any part of its rights and obligations under this Agreement and the other Loan Documents, but only in accordance with the terms of the Indenture. Bondowner Representative may disclose information about the Loan, Borrower, Guarantor, the Property and other relevant matters to Bondowner Representative's Affiliates, potential purchasers of, assignees of, and participants in, the Loan, and to derivative counterparties and rating agencies.

**Section 8.14. Captions.** All captions or headings to sections, subsections and other divisions of this Agreement and the addenda and exhibits to this Agreement are only for the convenience of the parties and will not be construed to have any effect or meaning with respect to the other content thereof.

**Section 8.15. Incorporation.** The recitals, exhibits and addenda of and to this Agreement are incorporated herein and all provisions thereof will be deemed to be binding provisions of this Agreement.

**Section 8.16. Relationship of Parties; No Fiduciary Duty.** Borrower acknowledges that neither Issuer nor Bondowner Representative has any fiduciary relationship with, or fiduciary duty to, Borrower or any other person or entity arising out of or in connection with this Agreement, any of the other Loan Documents, and the relationship between Issuer and Bondowner Representative and Borrower in connection herewith and therewith is solely that of creditor and debtor. None of this Agreement, the other Loan Documents create a joint venture among the parties.

**Section 8.17. Nondiscrimination and Affirmative Action.** The Borrower shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the Issuer. The Borrower shall not discriminate in its employment practices against any employee or applicant for employment denial of family and medical care leave; denial of pregnancy disability leave or reasonable accommodations against any employee or applicant for employment because of such person's race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief. The Borrower shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Borrower shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The affirmative action program of the Borrower shall include the mandatory contract provisions set forth in the Los Angeles Administrative Code Section 10.8.4, and said provisions are incorporated herein by this reference. The Borrower shall also comply with all rules, regulations, and policies of the Issuer's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by the Issuer. Any subcontract entered into by the Borrower relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this section. No person shall on the grounds of race, ancestry, color, citizenship, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, familial status, domestic partner status, physical handicap, mental disability, medical condition, political affiliation or belief be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Agreement. For purposes of this Section, Title 24 Code of Federal Regulations Part 107 and Section 570.601(b) defines specific discriminatory actions that are prohibited and corrective action that shall be taken in a situation as defined therein.

**Section 8.18. Americans With Disabilities Act.** The Borrower hereby certifies that it and any contractor and subcontractor will comply with the Accessibility Requirements (as defined in Exhibit J of the Regulatory Agreement). The Borrower and any contractor and subcontractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services, and activities in accordance with the applicable provisions of: (i) the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., and its implementing regulations and the American Disabilities Act Amendments



Act (ADAAA) Pub. L.110 325 and all subsequent amendments; (ii) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, the implementing regulations at 24 C.F.R. Part 8, as well as the requirements of Uniform Federal Accessibility Standards 24 C.F.R §40, Appendix A; (iii) the Fair Housing Act, 42 U.S.C. §§3601-3620; 24 C.F.R. Parts 100, 103, and 104, and its implementing regulations; and (iv) applicable California building codes. The Borrower and any contractor and subcontractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any contract and subcontract entered into by the Borrower, relating to this Agreement and the Project, to the extent allowed hereunder, shall be subject to the provisions of this Section.

**Section 8.19. Business Tax Registration Certificate.** Subject to any exemption available to it, Borrower and Bondowner Representative each represent that it has obtained or will obtain the Business Tax Registration Certificate(s) required by the City of Los Angeles' Business Tax Ordinance (Article 1, Chapter 2, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, Borrower and Bondowner Representative each shall maintain, or obtain as necessary, any such Business Tax Registration Certificate(s) required of it under said Ordinance and shall not allow any such Business Tax Registration Certificate(s) to be revoked or suspended.

**Section 8.20. Child Support Assignment Orders.** This Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Borrower certifies that it will (a) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (b) that the principal owner(s) of Borrower are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (c) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (d) maintain such compliance throughout the term of the Regulatory Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Borrower to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Borrower to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by Borrower as appropriate, under the terms of the Regulatory Agreement, subjecting (i) Borrower to the remedies provided herein and (ii) the Trustee to termination under the Indenture where, in either case, such failure shall continue for more than 90 days after notice of such failure to Borrower by Issuer. Any subcontract entered into by Borrower relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of Borrower to obtain compliance of its subcontractors shall constitute a default by Borrower under the terms of this Agreement, subjecting (i) Borrower to the remedies provided herein and (ii) the Trustee to termination under the Indenture where such failure shall continue for more than 90 days after notice of such failure to Borrower by Issuer.

Borrower shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The Borrower hereby affirms that to the best of its knowledge, it is fully complying with the earnings assignment orders of all employees and

is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (b) of Section 7110 of the Public Contract Code.

**Section 8.21. Limitation on Issuer's Liability.** Issuer shall not be obligated to pay the principal of, premium, if any, or interest on the Bond, except from Revenues. Any obligation or liability of the Issuer created by or arising out of this Agreement (including without limitation any liability created by or arising out of the representations, warranties or covenants set forth herein or otherwise) shall not impose a debt or pecuniary liability upon the Issuer or a charge upon its general credit, but shall be payable solely out of Revenues. Neither the issuance of the Bond nor the delivery of this Agreement shall, directly or indirectly or contingently, obligate the Issuer to make any appropriation for payment of the Bond. Nothing in the Bond or this Agreement or the proceedings of the Issuer authorizing the Bond or in the Act or the Law or in any other related document shall be construed to authorize the Issuer to create a debt of the Issuer within the meaning of any constitutional or statutory provision of the State. No breach of any pledge, obligation or agreement of the Issuer hereunder may impose any pecuniary liability upon the Issuer or any charge upon its general credit.

THE BOND IS ISSUED PURSUANT TO THE LAW AND IN ACCORDANCE WITH THE ACT AND IS A LIMITED OBLIGATION OF THE ISSUER. NEITHER THE CITY COUNCIL OF THE ISSUER NOR ANY OFFICIAL OR EMPLOYEE OF THE ISSUER NOR ANY PERSON EXECUTING THE BOND SHALL BE LIABLE PERSONALLY ON THE BOND OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF ITS ISSUANCE. THE BOND AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE ONLY FROM THE TRUST ESTATE AND ANY OTHER REVENUES, FUNDS OR ASSETS PLEDGED UNDER THE INDENTURE AND NOT FROM ANY OTHER REVENUE, FUNDS OR ASSETS OF THE ISSUER. NEITHER THE ISSUER, THE STATE NOR ANY OTHER POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF SUCH BOND OR THE INTEREST THEREON OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE MONEY PLEDGED THEREFOR. THE BOND AND THE INTEREST THEREON DO NOT AND SHALL NEVER CONSTITUTE A DEBT OF INDEBTEDNESS OR A GENERAL OBLIGATION OF THE ISSUER, THE STATE OR ANY MUNICIPAL OR POLITICAL CORPORATION OR SUBDIVISION OF THE STATE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF NOR THE FAITH AND CREDIT OF THE ISSUER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BOND OR OTHER COSTS INCIDENT THERETO. THE BOND IS NOT A DEBT OF THE UNITED STATES OF AMERICA.

No recourse under or upon any obligation, covenant, warranty or agreement contained in the Indenture, this Agreement or in the Bond, or under any judgment obtained against Issuer, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent of the Indenture or this Agreement, shall be had against the Mayor, the City Council or any of the members, officers, agents or employees of the Issuer, as such, past, present or future of the

Issuer, either directly or through the Issuer or otherwise, for the payment for or to the Issuer or any receiver of the Issuer, or for or to the owner of the Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon the Bond. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of the Mayor, the City Council or of any such member, officer, agent or employee, as such, by reason of any act of omission on his or her part or otherwise, for the payment for or to the owners of the Bond or otherwise of any sum that may remain due and unpaid upon the Bond secured by the Indenture or any of them is, by the acceptance of the Bond, expressly waived and released as a condition of and in consideration for the execution of the Indenture and this Agreement and the issuance of the Bond.

Anything in this Agreement to the contrary notwithstanding, it is expressly understood by the parties to this Agreement that (a) the Issuer may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, the Borrower, the Bondowner Representative or any Bondholder as to the existence of any fact or state of affairs, (b) the Issuer shall not be under any obligation under the Indenture or this Agreement to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Trustee, the Bondowner Representative or by any Bond holder and (c) none of the provisions of the Indenture, this Agreement, the Regulatory Agreement or any Loan Document shall require the Issuer to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under the Indenture, this Agreement, the Regulatory Agreement and any Loan Document unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action. It is recognized that notwithstanding any other provision of this Agreement, neither the Borrower nor any bondholder shall look to the Issuer or the members of its City Council, officers, program participants, attorneys, accountants, financial advisors, agents or staff for damages suffered by the Borrower or such bondholder as a result of the failure of the Issuer to perform any covenant, undertaking or obligation under this Agreement, the Bond, the Regulatory Agreement, any of the Loan Documents or any of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Issuer in any of such documents, nor for any other reason except for representations made by the Issuer in any certificate of the Issuer and the opinion of counsel to the Issuer delivered on the Closing Date.

No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bond or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Bond shall be had against the Mayor, the City Council or any officer, member, agent or employee of the Issuer, as such, all such liability being expressly released and waived as a condition of and as a part of the consideration for the execution of the Indenture and this Agreement and the issuance of the Bond. No covenant, stipulation, obligation or agreement of the Issuer contained in the Indenture, this Agreement, the Regulatory Agreement or any Loan Document shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Mayor or the City Council in other than that person's official capacity. No member, officer, agent or employee of the Issuer shall be individually or personally liable for the payment of the principal or redemption price of or interest on the Bond or be subject to any personal liability or accountability by reason of the issuance of the Bond.



**Section 8.22. Counterparts.** This Agreement may be executed in counterparts, each of which will be an original, and all of which together will constitute but one and the same instrument.

## ARTICLE IX

### WAIVER OF JURY TRIAL; JUDICIAL REFERENCE

EACH OF BORROWER AND BONDOWNER REPRESENTATIVE (FOR ITSELF AND ITS SUCCESSORS, ASSIGNS AND PARTICIPANTS) HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER BY THE BORROWER AND BONDOWNER REPRESENTATIVE AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

From the date of Loan closing to the Conversion Date, Borrower and Bondowner Representative agree that, in the event any legal proceeding is filed in a court of the State of California (the "Court") by or against any party hereto in connection with any controversy, dispute or claim directly or indirectly arising out of or relating to this agreement or the transactions contemplated hereby (whether based on contract, tort or any other theory) (each, a "Claim") and the waiver set forth in the preceding paragraph is not enforceable in such action or proceeding.

With the exception of the matters specified in section 9.02 below, any Claim will be determined by a general reference proceeding in accordance with the provisions of California Code of Civil Procedure Sections 638 through 645.1. The parties intend this general reference agreement to be specifically enforceable in accordance with California Code of Civil Procedure Section 638. Except as otherwise provided in the Loan Documents, venue for the reference proceeding will be in the state or federal court in the county or district where venue is otherwise appropriate under applicable law.

The following matters shall not be subject to a general reference proceeding: (a) non-judicial foreclosure of any security interests in real or personal property, (b) exercise of self-help remedies (including, without limitation, set-off), (c) appointment of a receiver and (d) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This Agreement does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (a) - (d) and any such exercise or opposition does not waive the right of any party to a reference proceeding pursuant to this Agreement.

Upon the written request of Borrower or Bondowner Representative, Borrower and Bondowner Representative shall select a single referee, who shall be a retired judge or justice. If the parties do not agree upon a referee within ten days of such written request, then, any party may request the court to appoint a referee pursuant to California Code of Civil Procedure Section 640(b).

All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except when any party so requests, a court reporter will be used and the referee will be provided a courtesy copy of the transcript. The party making such request shall have the obligation to arrange for and pay costs of the court reporter, provided that such costs, along with the referee's fees, shall ultimately be borne by the party who does not prevail, as determined by the referee.

The referee may require one or more prehearing conferences. Borrower and Bondowner Representative shall be entitled to discovery, and the referee shall oversee discovery in accordance with the rules of discovery, and may enforce all discovery orders in the same manner as any trial court judge in proceedings at law in the State of California. The referee shall apply the rules of evidence applicable to proceedings at law in the State of California and shall determine all issues in accordance with applicable state and federal law. The referee shall be empowered to enter equitable as well as legal relief and rule on any motion which would be authorized in a trial, including, without limitation, motions for default judgment or summary judgment. The referee shall report his decision, which report shall also include findings of fact and conclusions of law.

Borrower and Bondowner Representative recognize and agree that all claims resolved in a general reference proceeding pursuant hereto will be decided by a referee and not by a jury.

In the event of any inconsistency between the provisions of this article and any other provision of the Loan Documents, this article will control.

## **ARTICLE X**

### **WAIVER OF SPECIAL DAMAGES**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM AGAINST BONDOWNER REPRESENTATIVE, ISSUER OR EITHER OF THEM ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS AGREEMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.

## **ARTICLE XI**

### **USA PATRIOT ACT NOTIFICATION**

Bondowner Representative hereby notifies Borrower that pursuant to the requirements of Section 326 of the USA Patriot Act of 2001 31 U.S.C. Section 5318 (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow Borrower Representative to identify the Borrower in accordance with the Patriot Act.

[Remainder of page intentionally left blank]

**ISSUER:**

CITY OF LOS ANGELES, as Issuer

By: \_\_\_\_\_  
Authorized Officer

Approved as to form:

Carmen A. Trutanich, City Attorney

\_\_\_\_\_  
Deputy/Assistant City Attorney

[Issuer Signature page for *T. Bailey Manor* Loan Agreement]

**BORROWER:**

T. BAILEY MANOR, L.P., a California limited partnership

By: T. Bailey MGP, LLC, a California limited liability company, its Managing General Partner

By: Women Organizing Resources, Knowledge and Services, a California nonprofit public benefit corporation its Managing Member

By: \_\_\_\_\_  
Channa Grace  
President

[Borrower Signature page for *T. Bailey Manor* Loan Agreement]

**BONDOWNER REPRESENTATIVE:**

CALIFORNIA BANK & TRUST,  
a California banking corporation

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

[Bondowner Representative Signature page for *T. Bailey Manor* Loan Agreement]