

# TRANSMITTAL

To:

**THE COUNCIL**

Date: 11/23/2016

From:

**THE MAYOR**

**TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.**



(Ana Guerrero)

**ERIC GARCETTI**  
Mayor



Eric Garcetti, Mayor  
Rushmore D. Cervantes, General Manager

Housing Development Bureau  
1200 West 7th Street, Los Angeles, CA 90017  
tel 213.808.8638 | fax 213.808.8610  
hcidla.lacity.org

November 22, 2016

Council File: New  
Council District: 15  
Contact Persons: Apolinar Abrajan (213) 808-8947  
Timothy Elliott (213) 808-8596  
Edwin C. Gipson, II (213) 808-8597  
Helmi A. Hisserich (213) 808-8662

Honorable Eric Garcetti  
Mayor, City of Los Angeles  
Room 303, City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

**COUNCIL TRANSMITTAL: REQUEST FOR AUTHORITY TO ISSUE A MULTIFAMILY CONDUIT REVENUE BOND IN THE AMOUNT UP TO \$38,000,000 FOR THE JORDAN DOWNS PHASE 1A APARTMENTS.**

**SUMMARY**

The Los Angeles Housing and Community Investment Department (HCIDLA) requests authority to issue a multifamily conduit revenue bond in the amount up to \$38,000,000 (\$28,000,000 tax-exempt and \$10,000,000 taxable) in order to help finance the development of the Jordan Downs Phase 1A Apartments. The California Debt Limit Allocation Committee (CDLAC) has designated January 30, 2017 as the tax-exempt bond issuance deadline.

**RECOMMENDATIONS**

The General Manager of HCIDLA respectfully requests the following:

- I. That your office schedule this transmittal for consideration at the next available meeting(s) of the appropriate Committee(s) of the City Council and forward it to the City Council for review and approval immediately thereafter;

- II. That the City Council, subject to the approval of the Mayor, take the following actions:
- A. Adopt the Resolution, provided as Attachment A to this report, authorizing the issuance up to \$38,000,000 in a multifamily conduit revenue bond (\$28,000,000 tax-exempt and \$10,000,00 taxable) for the development of the Jordan Downs Phase 1A Apartments; and,
  - B. Authorize the HCIDLA General Manager, or designee, to negotiate and execute relevant bond documents for the Jordan Downs Phase 1A Apartments, subject to the approval of the City Attorney as to form.

## **BACKGROUND**

### Project Summary

The subject site is vacant land located at 9901 S. Alameda Street, Los Angeles, CA 90002 in Council District 15. The development entails new construction to provide affordable housing units for families. The site amenities will include: a community room with a television lounge, a computer room with a kitchen, outdoor space with picnic and barbeque areas, community gardens, a children's playground, walking paths, and on-site parking. The land is owned by the Housing Authority of the City of Los Angeles (HACLA) and will be leased for 75 years to the sponsor for development.

The Jordan Downs Phase 1A is the first residential component of the Jordan Downs Redevelopment Master Planned Community. The Jordan Downs Redevelopment Master Planned Community will result in a mixed-use and mixed-income community. The multiphase effort calls for a one to one replacement of the Jordan Downs housing complex (700 housing units), the addition of up to 1,400 affordable and market rate housing units, along with much needed neighborhood-serving retail, community centers and parks.

### Financing History

On April 20, 2005, the Mayor and City Council delegated inducement authority to HCIDLA (formerly the Los Angeles Housing Department) to issue bonds for the benefit of qualified affordable multifamily residential projects seeking bond financing from the City of Los Angeles (C.F. 04-2646). On May 20, 2016, HCIDLA induced the Jordan Downs Phase 1A Apartments.

On May 20, 2016, on behalf of the Sponsor, HCIDLA submitted the application to CDLAC for an allocation of \$28,000,000 of tax-exempt bonds. On June 6, 2016, HCIDLA conducted a public hearing in accordance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). On June 21, 2016, the TEFRA Resolution and Minutes were approved by the Mayor and Council (C.F. 16-0690); evidence of TEFRA is required by CDLAC. On July 20, 2016 CDLAC awarded the tax-exempt bond allocation and designated January 30, 2017 as the tax-exempt bond issuance deadline.

### Affordability Restrictions

Pursuant to the HCIDLA Bond Policies, the Jordan Downs Phase 1A Apartments must provide a public benefit. Therefore, a Bond Regulatory Agreement will be executed in connection with the issuance of the tax-exempt bond. The Bond Regulatory Agreement will include affordability restrictions throughout a term ending no sooner than the later of: 1) 15 years after 50% of the units are first occupied; 2) the date such bonds are paid in full; 3) the date on which any Section 8 assistance terminates, if applicable; or 4) the date of expiration of the 55 year term of the restrictions imposed by CDLAC. The Jordan Downs Phase 1A Apartments will also have affordability restrictions under separate agreement with the California Tax Credit Allocation Committee (CTCAC) for a term of 55 years as a result of the allocation of 4% Low Income Housing Tax Credits. On July 20, 2016, CTCAC provided a reservation of low income housing tax credits.

The Jordan Downs Phase 1A Apartments will provide a total of 114 housing units plus one manager unit. The affordable units will be targeted to households at or below 50% of Area Median Income (AMI). The units mix will also include units at Fair Market Rate (FMR). The table below provides a summary of the units mix as listed on the CDLAC application.

| <b>UNIT TYPE</b> | <b>50%<br/>AMI</b> | <b>FMR</b> | <b>Mgr.</b> | <b>TOTAL</b> |
|------------------|--------------------|------------|-------------|--------------|
| One Bdr.         | 13                 |            |             | 13           |
| Two Bdr.         | 49                 | 10         | 1           | 60           |
| Three Bdr.       | 27                 | 5          |             | 32           |
| Four Bdr.        | 9                  |            |             | 9            |
| Five Bdr         | 1                  |            |             | 1            |
| <b>TOTAL</b>     | <b>99</b>          | <b>15</b>  | <b>1</b>    | <b>115</b>   |

### Development Team

The Borrower/Sponsor is Jordan Downs 1A, LP, a California limited partnership that includes JD Housing 1A, LLC, a California limited liability company, its managing general partner, and BRIDGE Regional Partners, Inc, a, California non-profit corporation, its initial limited partner. BRIDGE Housing Corporation (BHC), a California 501(c)3 non-profit corporation, is the sole managing member of the Sponsor's managing general partner. BHC is also the Developer.

The officers of BRIDGE Housing Corporation include: Ron Nahas, Chairman; Kimberly McKay, Executive Vice President; Susan Johnson, Executive Vice President/Secretary; Cynthia Parker, President/Chief Executive Officer; Brad Wiblin, Senior Vice President; and, Christopher Nicholson, Vice President. BHC has developed at least 141 projects which resulted in 15,856 multifamily rental housing units.

Developer: BRIDGE Housing Corporation  
600 California Street, Suite 900  
San Francisco, CA 94108  
Phone: (949) 229-7071  
Contact: Kim McKay, Executive Vice President

The Borrower/Sponsor and Developer(s) are in compliance with HCIDLA Business Policies.

The additional development team members are:

Architect: SVA Architects  
3 MacArthur Place, Suite 850  
Santa Ana, CA 92707  
Phone: (949) 809-3380  
Contact: Ernie Vasquez, Partner

Attorney: Goldfarb & Lipman, LLP  
523 W. 6th Street, Suite 610  
Los Angeles, CA 90014  
Phone: (213) 627-6336  
Contact: Joshua Mason

General Contractor: (To Be Determined)

Property Manager: Interstate Realty Management Company  
2020 W. Kettleman Lane  
Lodi, CA 95242  
Phone: (209) 334-6565  
Contact: Mary Keshishian, Broker/CPM

Tax Credit Investor: Bank of America  
333 S. Hope Street, Suite 2021  
Los Angeles, CA 90071  
Phone: (949) 287-0478  
Contact: Joe Siu, Senior V.P.

### Financial Structure

Initially, the bond will be purchased by Bank of America, N.A (BoFA) in a private placement transaction. Proceeds from the sale of the bond will be provided as a tax-exempt (up to \$28,000,000) and taxable (up to \$10,000,000) construction loan to the Borrower. The construction loan will be in the amount up to \$38,000,000 with a 24 month term. The interest rate will be a fluctuating rate equal to the LIBOR Daily Floating Rate plus 1.75%; the current indicative rate is 2.29%. The bonds will be unenhanced and unrated and subject to the HCIDLA Bond Policies.

At conversion to permanent financing, permanent financing sources will be used to pay down the entire taxable and tax exempt construction loan to \$7,270,000. JP Morgan Chase, N.A. (CHASE) will purchase the remaining bond and the CHASE permanent loan will have a fixed interest rate (currently estimated as 3.97%) and will mature 35 years from the permanent loan closing.

The financing structure also includes funds from the State of California Department of Housing and Community Development's (HCD's) Affordable Housing and Sustainable Communities (AHSC) Program Housing Related Infrastructure (HRI) Grant, the Housing Authority of the City of Los Angeles (HACLA), and 4% tax credit equity from BoFA. In addition, HACLA has committed 50 regular Project Based Vouchers (PBVs) and 32 Rental Assistance Demonstration (RAD) PBV.

HCIDLA will require BofA and CHASE to meet the reporting requirements of the City’s Responsible Banking Ordinance. The project financing complies with both the HCIDLA Bond Policies and City Financial Policies. At closing, bond counsel will provide the City the required legal opinions as to the tax-exempt status of the tax-exempt bond under federal and state law. The legal and financing documents will include language that establishes the bond structure as a limited obligation and strictly payable from the project revenues; and, requires the Borrower/Sponsor to provide annual statements and additional information as may be reasonably requested by HCIDLA.

Sources and Uses

The tables below provide a summary of the sources and uses for the project, including cost per unit and cost category percentages.

| <b>Construction</b>                                 | <b>Total Sources</b> | <b>Per Unit</b>  | <b>% Total</b> |
|---|----------------------|------------------|----------------|
| Bond Proceeds -Tax Exempt (BofA)                    | \$28,000,000         | \$243,478        | 50%            |
| Bond Proceeds – Taxable (BofA)                      | \$5,815,067          | \$50,566         | 10%            |
| GP loan (AHSC-HRI)                                  | \$500,000            | \$4,348          | 1%             |
| HACLA – Ground Lease                                | \$2,950,000          | \$25,652         | 5%             |
| HACLA – Replacement Housing Factor Funds (RHF) loan | \$5,000,000          | \$43,478         | 9%             |
| HACLA – Gap loan                                    | \$1,752,433          | \$15,239         | 3%             |
| HACLA – Century Bl. (loan)                          | \$5,500,000          | \$47,826         | 10%            |
| HACLA – for B Permit costs                          | \$587,000            | \$5,105          | 1%             |
| Deferred Costs                                      | \$4,693,593          | \$40,814         | 8%             |
| 4% Tax Credit Equity (BofA)                         | \$1,576,000          | \$13,704         | 3%             |
| <b>TOTAL</b>  | <b>\$56,374,093</b>  | <b>\$490,210</b> | <b>100%</b>    |

| <b>Permanent</b>                   | <b>Total Sources</b> | <b>Per Unit</b>  | <b>% Total</b> |
|------------------------------------|----------------------|------------------|----------------|
| Bond Proceeds – Tax Exempt (CHASE) | \$7,270,000          | \$63,217         | 13%            |
| State of CA (HCD) – AHSC loan      | \$6,000,000          | \$52,174         | 11%            |
| HACLA – for B Permit costs         | \$587,000            | \$5,104          | 1%             |
| HACLA – Ground Lease               | \$2,950,000          | \$25,652         | 5%             |
| HACLA – RHF loan                   | \$5,000,000          | \$43,478         | 9%             |
| HACLA – Gap loan                   | \$1,752,433          | \$15,239         | 3%             |
| HACLA – Century Bl. (loan)         | \$5,500,000          | \$47,826         | 10%            |
| GP loan (AHSC-HRI)                 | \$500,000            | \$4,348          | 1%             |
| CDLAC - Performance Deposit refund | \$100,000            | \$870            | 0%             |
| Deferred Developer Fee             | \$494,488            | \$4,300          | 1%             |
| GP Contribution                    | \$2,159,380          | \$18,777         | 3%             |
| 4% Tax Credit Equity               | \$24,060,792         | \$209,225        | 43%            |
| <b>TOTAL</b>                       | <b>\$56,374,093</b>  | <b>\$490,210</b> | <b>100%</b>    |

| <b>Uses of Funds</b>        | <b>Total Uses</b>   | <b>Cost/Unit</b> |
|-----------------------------|---------------------|------------------|
| Ground Lease                | \$3,450,000         | \$30,000         |
| Hard Costs                  | \$22,956,958        | \$199,626        |
| Architect / Engineering     | \$1,700,000         | \$14,783         |
| Contractor Overhead/ Profit | \$2,223,199         | \$19,332         |
| Developer Fee               | \$5,153,868         | \$44,816         |
| Cost of Issuance            | \$548,088           | \$4,766          |
| Other Soft Costs            | \$20,341,980        | \$176,887        |
| <b>TOTALS</b>               | <b>\$56,374,093</b> | <b>\$490,210</b> |

The HCIDLA Bond Team for the financing of the Jordan Downs Phase 1A Apartments is as follows:

Bond Issuer Financial Advisor  
CSG Advisors, Inc.  
315 W. 5<sup>th</sup> Street, Suite 302  
Los Angeles, CA 90013

Bond Counsel  
Kutak Rock LLP  
777 S. Figueroa Street, Suite 4550  
Los Angeles, CA 90017

Bond Issuer Counsel  
Los Angeles City Attorney  
200 N. Main Street, 9<sup>th</sup> Floor  
Los Angeles, CA 90012

#### Labor Costs

Labor costs for the Jordan Downs Phase 1A Apartments are subject to California prevailing wage requirements and/or federal wage requirements under the Davis–Bacon Act of 1931 and Related Acts, if applicable.

#### Timeline

CDLAC designated January 30, 2017 as the bond issuance deadline.

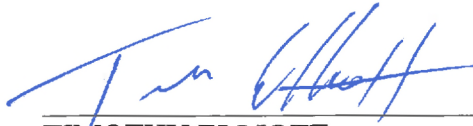
#### **FISCAL IMPACT STATEMENT**

There is no fiscal impact on the General Fund as a result of the issuance of the bond. HCIDLA is a conduit issuer and will not incur liability for repayment of the bond. The bond is a limited obligation payable strictly from revenue from the project. HCIDLA will not be obligated to make payments on the bond.


Prepared By:

  
APOLINAR ABRAJAN  
Finance Development Officer - I

Reviewed By:

  
TIMOTHY ELLIOTT  
Manager,  
Finance and Development Division


Reviewed By:

  
EDWIN C. GIPSON, II  
Director,  
Finance and Development Division


Reviewed By:

  
HELMI HISSERICH  
Assistant General Manager

Reviewed By:

  
LAURA K. GUGLIELMO  
Executive Officer

Approved By:

  
RUSHMORE D. CERVANTES  
General Manager

- Attachment A – Resolution (for bond issuance)
- Attachment B – Loan Agreement
- Attachment C – Trust Indenture
- Attachment D – Regulatory Agreement and Declaration of Restrictive Covenants



**ATTACHMENT A**  
**HCIDLA Request for Issuance of Bonds for Jordan Downs Phase 1A**

*Resolution for Jordan Downs Phase 1A on next page.*

**RESOLUTION**  
**CITY OF LOS ANGELES**

A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF A BOND BY THE CITY OF LOS ANGELES DESIGNATED AS ITS MULTIFAMILY HOUSING REVENUE BOND (JORDAN DOWNS PHASE 1A APARTMENTS) SERIES 2016P-1 AND TAXABLE SERIES 2016P-2 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$38,000,000 TO PROVIDE FINANCING FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE MULTIFAMILY HOUSING PROJECT SPECIFIED IN PARAGRAPH 16 HEREOF AND APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE, A REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, A LOAN AGREEMENT AND RELATED DOCUMENTS AND AGREEMENTS AND THE TAKING OF RELATED ACTIONS, INCLUDING THE EXECUTION OF AMENDATORY DOCUMENTS THERETO.

WHEREAS, the City of Los Angeles (the “City”) is authorized, pursuant to Section 248, as amended, of the City Charter (the “Charter”) of the City and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as amended (the “Law”), to issue its revenue bonds for the purposes of providing financing for the acquisition, construction and development of multifamily rental housing for persons and families of low or moderate income (the “Program”) which will satisfy the provisions of Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the “Act”); and

WHEREAS, the City desires to issue pursuant to the Law and in accordance with the Act, its revenue bond to provide financing for the acquisition, construction and equipping of that multifamily rental housing project described in paragraph 16 below (the “Project”); and

WHEREAS, the Project will be located wholly within the City; and

WHEREAS, it is in the public interest and for the public benefit that the City authorize financing for the Project, and it is within the powers of the City to provide for such a financing and the issuance of such bond; and

WHEREAS, the City proposes to issue, pursuant to the Law and in accordance with the Act, its Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Series 2016P-1 (the “Series 2016P-1 Bond”) and its Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Taxable Series 2016P-2 (the “Taxable Series 2016P-2 Bond” and, together with the Series 2016P-1 Bond, the “Bond”) in one or more series in an aggregate principal amount not to exceed \$28,000,000 of Series 2016P-1 Bond and an aggregate principal amount not to exceed \$10,000,000 of Taxable Series 2016P-2 Bond; and

WHEREAS, the City proposes to use the proceeds of the Bond to cause the financing of the Project and, if applicable, to pay certain costs of issuance in connection with the issuance of the Bond; and

WHEREAS, Bank of America, N.A., a national banking association (the “Purchaser”), has expressed the intention of the Purchaser to purchase the Bond authorized hereby or to cause such Bond to be purchased by its affiliate, in whole and this Council (the “City Council”) finds that the public interest and necessity require that the City at this time make arrangements for the sale of such Bond; and

WHEREAS, the interest on the Series 2016P-1 Bond may qualify for a federal tax exemption under Section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the “Code”), only if the Series 2016P-1 Bond is approved in accordance with Section 147(f) of the Code; and

WHEREAS, pursuant to the Code, the Series 2016P-1 Bond is required to be approved, following a public hearing, by an elected representative of the issuer of the Series 2016P-1 Bond and an elected representative of the governmental unit having jurisdiction over the area in which the Project is located; and

WHEREAS, this City Council is the elected legislative body of the City and is the applicable elected representative required to approve the issuance of the Series 2016P-1 Bond within the meaning of Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the City caused a notice to appear in the *Los Angeles Times*, which is a newspaper of general circulation in the City, on May 23, 2016 to the effect that a public hearing would be held on June 6, 2016 regarding the issuance of the Series 2016P-1 Bond; and

WHEREAS, the Los Angeles Housing and Community Investment Department held said public hearing on such date, at which time an opportunity was provided to present arguments both for and against the issuance of the Series 2016P-1 Bond; and

WHEREAS, the minutes of such public hearing, together with any written comments received in connection therewith, have been presented to the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Los Angeles, as follows:

1. The recitals hereinabove set forth are true and correct, and this City Council so finds. This Resolution is being adopted pursuant to the Law.
2. Pursuant to the Law and in accordance with the Act and the Indenture (as hereinafter defined), a revenue bond of the City, to be designated as “City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Series 2016P,” in one or more series in an aggregate principal amount not to exceed \$38,000,000 is hereby authorized to be issued. The principal amount of the Bond to be

issued shall be determined by a Designated Officer (as defined below) in accordance with this Resolution.

3. The proposed form of a Trust Indenture (the “Indenture”) by and between the City and such party as shall be designated by the City in the final form of Indenture, as trustee (the “Trustee”), substantially in the form attached hereto, is hereby approved along with any additions or supplements which may, in the determination of a Designated Officer, be necessary to document the issuance of the Bond authorized hereunder. The Mayor of the City, the General Manager, the Acting General Manager, the Interim General Manager or any Assistant General Manager, Acting Assistant General Manager, Interim Assistant General Manager, Executive Officer, Director or Acting Director— Finance and Development Division of the Housing Development Bureau of the Los Angeles Housing and Community Investment Department (each hereinafter referred to as a “Designated Officer”) are hereby authorized and directed to execute and deliver, for and in the name and on behalf of the City, said Indenture with such additions, changes or corrections as the Designated Officer executing the same may approve upon consultation with the City Attorney and Bond Counsel to the City and approval of the City Attorney, provided that such additions or changes shall not authorize an aggregate principal amount of the Bond in excess of the amount stated above, such approval by the City Attorney to be conclusively evidenced by the execution and delivery of the Indenture with such additions, changes or corrections.

Any Designated Officer shall be authorized to approve the appointment of the Trustee.

4. The proposed form of the Bond, as set forth in the Indenture, is hereby approved, and the Mayor and City Treasurer, the Interim City Treasurer or Deputy City Treasurer of the City are hereby authorized and directed to execute, by manual or facsimile signatures of such officers under the seal of the City, and the Trustee or an authenticating agent is hereby authorized and directed to authenticate, by manual signatures of one or more authorized officers of the Trustee or an authenticating agent, the Bond in substantially such form, and the Trustee is hereby authorized and directed to sell and deliver such Bond to the Purchaser in accordance with the Indenture and the Loan Agreement (hereinafter defined). The date, maturity date, interest rates (which may be either fixed or variable), interest payment dates, denomination, form of registration privileges, manner of execution, place of payment, terms of redemption, use of proceeds, and other terms of the Bond shall be as provided in the Indenture as finally executed; provided, however, that the principal amount of the Series 2016P-1 Bond shall not exceed \$28,000,000 and the principal amount of the Taxable Series 2016P-2 Bond shall not exceed \$10,000,000, no interest rate on the Bond shall exceed 12% per annum and the final maturity of the Bond shall be no later than November 1, 2056. The initial purchase price of the Bond shall be 100% of the par amount thereof as advances are made with respect to the Bond by the Purchaser. The Bond may, if so provided in the Indenture, be issued as a “draw-down” bond to be funded over time as provided in the Indenture. Such Bond may be delivered in temporary form pursuant to the Indenture if, in the judgment of the City Attorney, delivery in such form is necessary or appropriate until the Bond in definitive form can be prepared.

5. The proposed form of Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”) to be entered into by and among the City, the Trustee and the owner of the Project (as set forth in paragraph 16 below, the “Owner”), substantially in the form attached hereto, is hereby approved. Any Designated Officer is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver one or more Regulatory Agreements, with such additions, changes and corrections as the Designated Officer may approve upon consultation with the City Attorney and Bond Counsel and approval of the City Attorney, such approval to be conclusively evidenced by the execution of said Regulatory Agreement with such additions, changes or corrections. Any Designated Officer is hereby authorized and directed for and in the name and on behalf of the City to execute amendments to the Regulatory Agreement in order that interest on the Series 2016P-1 Bond remains tax-exempt.

6. The proposed form of Loan Agreement (the “Loan Agreement”), by and among the City, the Trustee and the Owner, in substantially the form attached hereto, is hereby approved. Any Designated Officer is hereby authorized and directed, for and in the name and on behalf of the City, to execute the Loan Agreement, with such additions, changes or corrections as the Designated Officer executing the same may approve upon consultation with the City Attorney and Bond Counsel and approval by the City Attorney, such approval to be conclusively evidenced by the execution of the Loan Agreement with such additions, changes or corrections.

7. All actions heretofore taken by the officers and agents of the City with respect to the sale and issuance of the Bond are hereby approved, confirmed and ratified, and each Designated Officer of the City, the City Clerk, and other properly authorized officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents, including, but not limited to, those described in the Indenture, the Loan Agreement, the Regulatory Agreement and the other documents herein approved, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bond and the implementation of the Program in accordance with the Act and the Law and this Resolution and resolutions heretofore adopted by the City.

8. The City Clerk of the City or any deputy thereof is hereby authorized to countersign or to attest the signature of any Designated Officer and to affix and attest the seal of the City as may be appropriate in connection with the execution and delivery of any of the documents authorized by this resolution, provided that the due execution and delivery of said documents or any of them shall not depend on such signature of the City Clerk or any deputy thereof or affixing of such seal. Any of such documents may be executed in multiple counterparts.

9. In addition to the Designated Officers, any official of the City, including any official of the Los Angeles Housing and Community Investment Department, as shall be authorized in writing by the Mayor of the City, is hereby authorized for and on behalf

of the City to execute and deliver any of the agreements, certificates and other documents, except the Bond, authorized by this Resolution.

10. In accordance with procedures established by the City Charter, the City Council, by adoption and approval of this Resolution and with the concurrence of the Mayor, does hereby direct that the proceeds of the Bond be delivered directly to the Trustee, instead of the City Treasurer, to be deposited into the funds and accounts established under the Indenture.

11. Pursuant to Section 147(f) of the Code, the City Council hereby approves the issuance of the Series 2016P-1 Bond to finance the Project. It is intended that this Resolution constitute approval of the Series 2016P-1 Bond by the applicable elected representative of the issuer of the Series 2016P-1 Bond and the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f).

12. Pursuant to the City Charter all agreements to which the City is a party shall be subject to approval by the City Attorney as to form.

13. Each Designated Officer and other properly authorized officials of the City as specifically authorized under this resolution are hereby authorized, directed and empowered on behalf of the City and this Council to execute any other additional applications, certificates, agreements, documents or other instruments or any amendments or supplements thereto, subject to approval by the City Attorney as to form, or to do and to cause to be done any and all other acts and things as they may deem necessary or appropriate to carry out the purpose of the foregoing authorizations and to address any issues arising with respect to the Bond or the agreements relating thereto subsequent to their issuance.

14. The Bond shall contain a recital that it is issued pursuant to the Law and in accordance with the Act.

15. This Resolution shall take effect immediately upon its passage and adoption.

16. The “Project” and “Owner”, as used herein, shall have the following meanings:

| <b>Project Name</b>              | <b>Number of Units</b>       | <b>Address</b>   | <b>Owner</b>        |
|----------------------------------|------------------------------|--|---------------------|
| Jordan Downs Phase 1A Apartments | 115 including 1 manager unit | 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002 | Jordan Downs 1A, LP |

[Remainder of Page Intentionally Left Blank]

I certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting on \_\_\_\_\_, 2016.

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



**ATTACHMENT B**  
**HCIDLA Request for Issuance of Bonds for Jordan Downs Phase 1A**

*Loan Agreement for Jordan Downs Phase 1A on next page.*

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**CITY OF LOS ANGELES,**  
as Issuer

and

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

and

**JORDAN DOWNS 1A, LP,**  
**a California limited partnership,**  
as Borrower

relating to

[\$28,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P-1

and

[\$10,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Taxable Series 2016P-2

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**LOAN AGREEMENT**

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Dated as of [\_\_\_\_\_] 1, 2016

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

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## LOAN AGREEMENT

THIS LOAN AGREEMENT is dated as of [\_\_\_\_\_] 1, 2016 (together with all supplements, modifications and amendments thereto, this “**Loan Agreement**”), among the CITY OF LOS ANGELES, a municipal corporation and charter city of the State of California (together with its successors and assigns, the “**Issuer**”), U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee under the herein defined Indenture (together with any successor trustee hereunder and their respective successors and assigns, the “**Trustee**”), and JORDAN DOWNS 1A, LP, a California limited partnership (together with its successors and assigns, the “**Borrower**”).

### WITNESSETH:

**WHEREAS**, the Issuer is authorized under its charter and the laws of the State of California (the “**State**”) to finance multifamily rental housing by issuing its revenue bond; and

**WHEREAS**, the Issuer has determined to issue its City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), Series 2016P-1 (the “**Tax-Exempt Bond**”) and its City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), Taxable Series 2016P-2 (the “**Taxable Bond**”) in the combined aggregate principal amount of \$[38,000,000] (collectively, the “**Bond**”) pursuant to the Trust Indenture dated as of the date hereof (the “**Indenture**”), executed by the Issuer and Trustee, for the purpose of providing funding necessary for the acquisition of a leasehold interest, construction and equipping by the Borrower of a 114-unit (plus one manager’s unit) multifamily rental housing project in Los Angeles, California known as Jordan Downs Phase 1A Apartments (the “**Project**”); and

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

**WHEREAS**, the Borrower has delivered to the Trustee, on behalf of the Issuer, its promissory notes dated the date of issuance of the Bond in an original principal amount equal to the aggregate authorized principal amount of the respective Bond in substantially the form set forth on Exhibit B hereto (as the same may be amended, modified or supplemented from time to time, collectively, the “**Note**”) evidencing its obligation to repay the Loan; and

**WHEREAS**, to secure its obligations under this Loan Agreement and the Note, the Borrower has executed, among other documents, (i) a Construction Deed of Trust, with Assignment of Rents, Security Agreement and Fixture Filing (as amended, modified or supplemented from time to time, the “**Mortgage**”), (ii) an Assignment of Contracts, Plans and Specifications (as the same may be amended, modified or supplemented from time to time, the “**Assignment of Project Documents**”), (iii) a Payment Guaranty (the “**Payment Guaranty**”)

and (iv) a Security Agreement (Assignment of Partnership Interest and Capital Obligations) (as amended, modified or supplemented from time to time, the “**Partnership Assignment**”), each dated as of even date with this Loan Agreement, for the benefit of the Issuer as secured party; and

**WHEREAS**, the Issuer has assigned its rights and interests in this Loan Agreement, in the Note, in the Mortgage and in the other Loan Documents, as defined in the Indenture (other than its Reserved Rights, as defined herein) to the Trustee, for the benefit of the Owner of the Bond; and

**WHEREAS**, pursuant to the Indenture, Bank of America, N.A. has been appointed by the Trustee as the “Servicer” of the Loan. In its capacity as the “Servicer” of the Loan, Servicer shall have the sole right to exercise, grant, make and/or issue all the elections, determinations, approvals, consents, rights, remedies, duties and functions of “Lender” hereunder and under the other Loan Documents. All payments of principal, interest, premium and fees payable under the Note shall be made to the Trustee; and

**WHEREAS**, the California Department of Housing and Community Development has made an affordable housing and sustainable communities loan of \$6,000,000 and a grant of \$500,000, HACLA has made an acquisition loan in the amount of \$[1,380,000], HACLA has made a conversion and bridge loan in the amount of \$[8,560,454] and Federal Home Loan Bank has made an affordable housing program loan in the amount of \$[\_\_\_\_\_], each to the Borrower to provide permanent financing to the Project;

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

## **ARTICLE I**

### **DEFINITIONS**

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

“**Accountant**” means an independent certified public accountant or firm of independent certified public accountants, selected by the Borrower and approved by the Servicer, such approval not to be unreasonably withheld or delayed. [\_\_\_\_\_] is hereby approved as the Accountant.

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

“**Approved Budget**” means the Proposed Budget approved by the Servicer.

“**Architect**” means [\_\_\_\_\_].

“**Architect’s Contract**” means that certain [Architectural Fee Proposal], dated [\_\_\_\_\_], from Architect to Borrower, providing for the design of the Improvements and the supervision of the construction and equipping thereof, including ongoing monthly inspection of the Improvements, certification of Requisitions and certification of Completion, among other things.

“**Bank**” means Bank of America, N.A., and its successors and assigns.

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

“**CC&RS**” means the Declaration of Covenants, Conditions and Restrictions to be recorded against title to the Property and providing for the cost sharing and maintenance of certain neighborhood parks and landscaping.

“**Change Order**” means a change made to the Plans and Specifications, as evidenced by a written change order request in accordance with the terms of the Construction Contract.

“**Completion**” shall have the meaning ascribed to that term in the Construction Disbursement Agreement.

“**Completion Agreement**” means the Completion Agreement dated the date hereof and executed by Guarantor in favor of the Trustee, as the same may be modified from time to time.

“**Completion Date**” means [\_\_\_\_\_], subject to extension pursuant to the Construction Disbursement Agreement.

“**Construction Contract**” means the contract, dated [\_\_\_\_\_] between the Borrower and the Contractor, providing for the construction and equipping of the Improvements and certification of Requisitions, among other things.

“**Construction Disbursement Agreement**” means the Construction Disbursement Agreement dated as of even date herewith between the Borrower and Servicer, as the same may be supplemented, amended or modified.

“**Consulting Engineer**” shall have the meaning ascribed to that term in the Construction Disbursement Agreement.

“**Contractor**” means [\_\_\_\_\_] Construction Company.

“**Conversion**” means the satisfaction of the Conversion Conditions as set forth in the Bond Purchase Agreement and the purchase of the Tax-Exempt Bond by JPMorgan.



“**Conversion Date**” means the date on which Conversion occurs.

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

“**Development Budget**” means the budget for total estimated Project Costs and sources of payment attached to the Construction Disbursement Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and the Construction Disbursement Agreement.

“**Direct Costs**” means the costs of the Project Site, the Improvements, the Personal Property, and all labor, materials, fixtures, machinery and equipment required to construct and equip the Improvements in accordance with the Plans and Specifications.

“**Financing Statements**” means Uniform Commercial Code Form 1 Financing Statement(s) from the Borrower and the General Partner in favor of the Trustee.

“**General Partner**” means JD Housing 1A, LLC, together with any permitted successor and assign as general partner of the Borrower.

“**General Partner Documents**” means the Partnership Assignment and the Environmental Indemnity.

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

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

“**Guarantor**” means BRIDGE Housing Corporation and its respective successors and assigns.

“**Guarantor Documents**” means the Payment Guaranty and the Completion Agreement.

“**HACLA**” means the Housing Authority of the City of Los Angeles, a public body corporate and politic.

**“Improvements”** means the 114-unit (plus one manager’s unit) multifamily rental housing project with related site improvements and amenities located on the Project Site and constructed and furnished in accordance with the Plans and Specifications.

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

**“Indirect Costs”** means all title insurance premiums, survey charges, engineering fees, architectural fees, real estate taxes, appraisal costs, premiums for insurance, marketing, advertising and leasing costs, brokerage commissions, legal fees, accounting fees, overhead and administrative costs, and all other expenses as shown on the Development Budget which are expenditures relating to the Project and are not Direct Costs.

**“Initial Notification of Taxability”** means the receipt by the Trustee or the Owner of a communication from the Internal Revenue Service or any court of competent jurisdiction to the effect that interest on the Tax-Exempt Bond is not excluded, or will not in the future be excluded, from the gross income of the owner of the Tax-Exempt Bond for federal income tax purposes.

**“Investor Limited Partner”** means Bank of America, N.A., together with its permitted successors and assigns as limited partner in Borrower.

**“Issuer’s Fee”** means an issuance fee in the amount of [ \_\_\_\_\_ ] Dollars (\$[ \_\_\_\_\_ ]) payable on the Closing Date and the other fees payable to the Issuer pursuant to Section 7(n) of the Regulatory Agreement.

**“Legal Requirements”** means any legal requirements, including any local, state or federal statute, law, ordinance, code, rule or regulation, now or hereinafter in effect (including environmental laws) or order, judgment, decree, injunction, permit, license, authorization, certificate, franchise, approval, notice, demand, direction or determination, of any Governmental Authority and all legal requirements imposed upon the Project Site, or upon the owner(s) of the Project Site from time to time, pursuant to any applicable covenants, conditions, easements, servitudes and restrictions and any applicable ground lease.

**“Lien”** means any interest in the Project or any part thereof or any right therein, including, without limitation, any rents, issues, profits, proceeds and revenues therefrom, securing an obligation owed to, or a claim by, any Person, whether such interest is based on the common law, statute or contract, and including, but not limited to, the lien and security interest

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

“**Loan Documents**” means this Loan Agreement, the Mortgage, the Note and all other documents which otherwise evidence, guarantee or secure the Loan, including, without limitation, the Permanent Period Supplemental Agreement from and after the Conversion Date.

“**Loan Fee**” means an amount equal to \$[\_\_\_\_\_] ([0.5]% of initial Loan amount).

“**Management Agreement**” means the Management Agreement dated as of [\_\_\_\_\_] 1, 2016, between Borrower and the Manager, and any substitute agreement relating to the management of the Project.

“**Manager**” means [\_\_\_\_\_] , or any successor manager of the Project approved by the Servicer and the Issuer (which approval of the Issuer shall not be unreasonably withheld and shall be deemed granted if not rejected within ten (10) days of receipt of written request therefor).

“**Obligor(s)**” means the Borrower, the General Partner and the Guarantor.

“**Operating Expenses**” means, for any period, the aggregate amount of expenses incurred by the Borrower in connection with the Project pursuant to arm’s-length transactions for ordinary and necessary expenses sufficient to provide the amenities and services associated with a multifamily residential facility as follows: labor costs; general maintenance; legal and accounting fees relating solely to the operation of the Project (and not partnership administration, other than audit and other expenses incurred by the Borrower relating solely to the operation of the Project); general and administrative costs of the Borrower directly attributable to the Project (and not partnership administration) and advertising and marketing costs; supplies for the Project; noncapital repairs and replacements; leasing and brokerage commissions; management fees payable pursuant to the management agreement up to an amount equal to [\_\_\_\_\_] % of Project Revenues; costs of licenses, permits and similar fees relating to property operations; premiums for insurance required pursuant to this Loan Agreement; charges for electricity and other utilities; real estate taxes, water and sewer rents and assessments; payments made into the Replacement Reserve Fund and the Tax and Insurance Fund; and all other expenses incurred in connection with the ordinary course of property operations and maintenance. The foregoing expenses and fees paid to Affiliates of the Borrower, with the Servicer’s consent, shall be included as Operating Expenses in an amount equal to the actual fees and expenses paid or payable to such Affiliate, but in no event greater than amount that customarily would be paid to an unaffiliated third party on an arm’s-length basis for such services. Without limiting the generality of those items which shall be excluded from the definition of Operating Expenses, the following shall be specifically excluded from such calculation: depreciation, amortization and other noncash items; all partnership administrative expenses (including, without limitation, legal, accounting, and other professional expenses); prepaid expenses which are not customarily

prepaid in the ordinary course of business; any termination or similar fee in connection with financing for the Project; expenditures funded by disbursements from the Replacement Reserve Fund and the Tax and Insurance Fund; mandatory debt service and mandatory principal payments on Indebtedness related to the Project; penalties, late fees and similar charges arising from or on account of the Borrower's failure to pay any monetary obligations; any costs, expenses or fees, including interest, payable by the Borrower on advances made by the Servicer, the Issuer or the Trustee after an Event of Default, and franchise and income taxes of the Borrower.

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

**“Partnership Agreement”** means the Amended and Restated Agreement of Limited Partnership of the Borrower dated as of [\_\_\_\_\_] 1, 2016, among the General Partner, the Special Limited Partner and the Investor Limited Partner, as the same may be amended, modified or supplemented from time to time, subject to the terms hereof.

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

**“Payment Guaranty”** means the Payment Guaranty dated as of the date hereof and executed by the Guarantor in favor of the Issuer, as the same may be modified, supplemented or amended from time to time.

**“Permanent Period Replacement Reserve Agreement”** means that certain Replacement Reserve Agreement, dated as of [\_\_\_\_\_] 1, 2016, by and between the Borrower and JPMorgan.

**“Permanent Period Supplemental Agreement”** means that certain Supplemental Agreement dated as of [\_\_\_\_\_] 1, 2016 between the Borrower and JPMorgan.

**“Permitted Encumbrances”** shall have the meaning ascribed to such term in the Mortgage.

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

**“Plans and Specifications”** means the plans and specifications for the Project prepared by the Architect and more particularly described in the Construction Disbursement Agreement, as the same may be amended, modified or supplemented in accordance with the terms hereof and the Construction Disbursement Agreement.

**“Project Approvals”** means all approvals, consents, waivers, orders, agreements, authorization, permits and licenses required under applicable Legal Requirements or under the terms of any restriction, covenant or easement affecting the Project, or otherwise necessary or desirable for the ownership, acquisition, construction and equipping, use and operation of the Project and the Improvements, whether obtained from a Governmental Authority or any other Person.

**“Project Costs”** means the sum of all Direct Costs and Indirect Costs that will be incurred by the Borrower in connection with the acquisition of the Project Site and the Improvements, the construction and equipping of the Improvements, the marketing and leasing of leasable space in the Improvements, and the operation and carrying of the Project through Conversion.

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

**“Project Site”** means the real property described in Exhibit A hereto.

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

**“Proposed Budget”** means the proposed capital and operating budget for the Project, submitted to the Servicer for approval.

**“RAD Agreement”** means the Rental Assistance Demonstration Use Agreement entered into between the Borrower, the U.S. Department of Housing and Urban Development, and HACLA.

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

**“Required Equity Funds”** means contributions by Investor Limited Partner to the capital of the Borrower, for application to Project Costs in accordance with the Approved Budget, to be contributed pursuant to the terms and conditions of the Partnership Agreement and so applied in installments at times and in amounts approved by the Servicer, in the aggregate amount of \$[\_\_\_\_\_], as such amount may be adjusted pursuant to the Partnership Agreement.

**“Reserved Rights”** means, the rights of the Issuer hereunder pursuant to Sections 2.3(a), 2.3(b), 2.3(c), 2.3(d), 2.3(e), 2.3(f), 2.3(g), 2.3(j), 2.3(l), 3.2(b), 3.2(c), 3.2(d), 3.2(f), 4.1 (but solely to the extent set forth in the Indenture), 5.3, 5.6, 5.10, 5.13, 5.14, 5.17, 5.18, 5.19, 5.26(c), 6.3(a)(ii), 7.4, 7.8, 8.1, 8.5, 8.7, 8.13, 8.14, 8.15, 8.16, 8.17 and 8.18 hereof and all rights of the

Issuer under the Regulatory Agreement, which rights are retained and not assigned to the Trustee pursuant to the Indenture and the Regulatory Agreement.

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

“**Special Limited Partner**” means Bank of America CDC Special Holding Company, Inc., a North Carolina Corporation, together with its permitted successors and assigns.

“**Subordinate Lender**” means, collectively, HACLA, California Department of Housing and Community Development and Federal Home Loan Bank.

“**Subordinate Loan**” means, collectively, the acquisition loan from the HACLA in the amount of \$[1,380,000], the conversion and bridge loan from HACLA in the amount of \$[8,560,454], an affordable housing and sustainable communities loan from the California Department of Housing and Community Development in the amount of \$[6,000,000], an affordable housing and sustainable communities grant from the California Department of Housing and Community Development in the amount of \$[500,000], an affordable housing program loan from Federal Home Loan Bank in the amount of \$[\_\_\_\_\_].

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

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

“**TCO**” means a temporary certificate of occupancy for all buildings in the Project issued by the City of Los Angeles and subject only to conditions approved by Majority Owner.

“**Title Insurance Company**” means Old Republic Title Insurance Company, or a substitute title company appointed by the Servicer and Borrower.

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

“**Unit Reserve Amount**” means, during the first twelve (12) months following completion of construction and equipping of the Project, an amount equal to at least \$[\_\_\_\_\_] times the number of apartment units at the Project.

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

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

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

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

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

## ARTICLE II

### REPRESENTATIONS AND COVENANTS

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

(a) The Issuer is a municipal corporation and charter city, duly organized, validly existing and in good standing under the Act and the laws of the State.

(b) The Issuer has the power and lawful authority to adopt the Resolution, to execute and deliver the Issuer Documents, to issue the Bond and receive the proceeds of the Bond, to apply the proceeds of the Bond to make the Loan, to assign the revenues derived and to be derived by the Issuer from the Loan to the Trustee and to perform and observe the provisions of the Issuer Documents and the Bond to be performed and observed by Issuer and to enter into the transactions described in the Issuer Documents and the Bond.

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

(d) The Issuer Documents and the Bond have been duly executed and delivered by the Issuer and constitute the legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors’ rights, and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

(e) Neither of the Issuer nor any director, member, officer or employee of the Issuer has any interest, financial, employment or other, in the Borrower, the Project or the transactions contemplated hereby.

(f) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, which (i) affects or questions the existence or the territorial jurisdiction of the Issuer or the title to office of any member of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Issuer Documents, or the issuance, execution or delivery of the Bond; (iii) affects or questions the validity or enforceability of any of the Issuer Documents or the Bond; (iv) questions the exclusion from gross income for federal income taxation of interest on the Tax-Exempt Bond; or (v) questions the power or authority of the Issuer to perform its obligations under any of the Issuer Documents or the Bond or to carry out the transactions contemplated by any of the Issuer Documents or the Bond.

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

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

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

(a) The Borrower is, and at all times will be, a limited partnership duly organized, validly existing and in good standing under the laws of the State. The General Partner is, and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of California. Each of the Borrower and the General Partner has, and will at all times have, all requisite power to own its property and conduct its business as now conducted and as presently contemplated, to execute and deliver the Loan Documents and the General Partner Documents and to perform its duties and obligations hereunder and thereunder.

(b) The execution, delivery and performance of this Loan Agreement and the other Loan Documents and the transactions contemplated hereby and thereby (i) are within the authority of the Borrower, (ii) have been duly authorized by all necessary proceedings on the part of the Borrower, (iii) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which the Borrower is subject or any judgment, order, writ, injunction, license or permit applicable to the Borrower, (iv) do not conflict with any provision of the Organizational Documents of the Borrower, and (v) do not require the approval or consent of, or filing with, any governmental agency or authority other than those already obtained and the filing of certain of the Loan Documents in the appropriate public records.



(c) The execution and delivery of this Loan Agreement and the other Loan Documents will result in valid and legally binding obligations of the Borrower enforceable against it in accordance with the respective terms and provisions hereof and thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights, and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

(d) The Borrower is, and will at all times be, a Single Purpose Entity.

(e) The address of the Borrower's chief executive office and principal place of business is c/o Bridge Housing Corporation, 600 California, Suite 900, San Francisco, California 94108, Attention: Rebecca Hlebasko. The organizational identification number for the Borrower is [\_\_\_\_\_]. The federal employer identification number for the Borrower is [\_\_\_\_\_].

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

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

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

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

jurisdiction, and the partners, officers, members or trustees of the Borrower know of no basis for any such claim. The Borrower has filed, and will continue to file, all of such tax returns, reports, and declarations either (x) separately from any Affiliate or (y) if part of a consolidated filing, as a separate member of any such consolidated group.

(j) The Project is located wholly within the State and within the jurisdiction of the Issuer.

(k) None of the Issuer, the Trustee or any director, member, officer or employee of the Issuer or the Trustee has any interest, financial, employment or other, in the Borrower, the Project or the transactions contemplated hereby.

(l) There is no Event of Default on the part of the Borrower or any Obligor under this Loan Agreement or any other Loan Document, any General Partner Document, any Guarantor Document or any Organizational Document, and no event has occurred and is continuing which after notice or passage of time or both would give rise to a default under any thereof. The Borrower has received no notices of and has no knowledge of any violations of any Legal Requirements or Project Approvals.

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

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

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

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

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

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

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

(t) All information regarding the Borrower, the Project and any Obligor delivered to the Issuer, the Trustee, the Servicer and the Majority Owner is true and correct in all material respects and all such financial information fairly presents the financial condition and results of operations of the Borrower and the other Obligors for the periods to which such financial information relates, and discloses all liabilities and contingent liabilities of the Borrower or the other Obligors.

(u) There are no actions, suits, proceedings or investigations of any kind pending or to the best of Borrower’s knowledge, threatened against the Borrower or the General Partner before any court, tribunal or administrative agency or board or any mediator or arbitrator that, if adversely determined, might, either in any case or in the aggregate, materially and adversely affect the business, assets or financial condition of the Borrower or the General Partner, or result in any liability not adequately covered by insurance, or for which adequate reserves are not maintained on the balance sheet of the Borrower or the General Partner, or which question the validity of this Loan Agreement or any of the other Loan Documents or any of the General Partner Documents, any action taken or to be taken pursuant hereto or thereto, or any lien or security interest created or intended to be created pursuant hereto or thereto, or which will

adversely affect the ability of the Borrower or the General Partner to construct, equip, use and occupy the Project or to pay and perform its obligations hereunder in the manner contemplated by this Loan Agreement, any of the other Loan Documents or any of the General Partner Documents.

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

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

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

(y) Except as set forth on Exhibit C hereto, the Borrower has obtained all Project Approvals required for the acquisition, construction and equipping of the Project in accordance with the Plans and Specifications. All Project Approvals obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Project Approvals required for acquisition, construction and equipping of the Project in accordance with the Plans and Specifications and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course in order to permit completion of construction and equipping of the Project in accordance with the Plans and Specifications on or before the Completion Date. The Borrower will timely obtain all Project Approvals not heretofore obtained by the Borrower (including those listed and described on Exhibit C hereto, those required for use and occupancy of the Project for its intended purpose upon Completion and any other Project Approvals which may hereafter become required, necessary or desirable) and will furnish the Servicer and the Majority Owner with evidence that the Borrower has obtained such Project Approvals promptly upon their receipt. The Borrower will duly perform and comply with all of the terms and conditions of all Project Approvals obtained at any time. No Project Approvals will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure, deed in lieu of foreclosure or exercise of power of sale under the Mortgage.

(z) The Borrower has furnished the Servicer and the Majority Owner with true and complete sets of the Plans and Specifications. The Plans and Specifications so furnished to the initial Servicer comply with all Legal Requirements, all Project Approvals, and all restrictions, covenants and easements affecting the Project, and have been approved by such Governmental Authority as is required for construction and equipping of the Improvements.

(aa) The Development Budget accurately reflects all Project Costs.

(bb) The Survey delivered to the Servicer and the Majority Owner does not fail to reflect any material matter of survey affecting the Project or the title thereto.

(cc) No part of the Improvements is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazard or to the extent any part of the Improvements is an area identified as an area having special flood hazard, adequate flood insurance has been obtained by the Borrower.

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

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

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

(gg) The Related Persons are not (and to Borrower's knowledge after diligent inquiry, no other Person holding any legal or beneficial interest whatsoever in the Related Persons), directly or indirectly, included in, owned by, Controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the Persons referred to or described in any list of persons, entities, and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("**OFAC**") pursuant to Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended ("**Executive Order 13224**"), or any similar list issued by OFAC or any other department or agency of the United States of America (collectively, the "**OFAC Lists**").

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

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

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

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

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

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

(f) Not enter into, cancel or amend any agreement for the furnishing of management or similar services to the Project, without the prior written consent of the Servicer, Majority Owner and the Issuer, such consent not to be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained in any of the Loan Documents, Borrower may replace the Manager with BRIDGE Property Management Company and further, Borrower shall have the right to immediately remove any management company for the Project, and terminate the management agreement without Lender, Servicer, Majority Owner and Issuer consent in the event of gross negligence, fraud, criminal or willful misconduct on the part of the management company. The Borrower will have the duty to self-manage the Project during any period when there is no management company until such time as a replacement management company satisfactory to the Borrower and the Lender is found, and the parties hereto agree to use their best efforts to agree on an acceptable replacement management company within thirty (30) days;

(g) Comply with all restrictions, covenants and easements affecting the Project, including, without limitation, all requirements of the Regulatory Agreement;

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

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

(j) Confirm and assure that the Project, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and shall be subject to examination and inspection at reasonable times and upon reasonable notice by the Issuer, the Trustee, Majority Owner or the Servicer or the duly authorized agent of any of them and shall keep copies of all written contracts or other instruments which affect the Project, all or any of which shall be subject to inspection and examination by the Issuer, the Trustee, Majority Owner, the Servicer or the duly authorized agent of any of them;

(k) Commencing on the fifth anniversary of the Closing Date, and on such anniversary in each fifth year thereafter, if requested by the Servicer, cause to be delivered to the Trustee and, if requested by the Servicer, the Servicer, at Borrower's cost, evidence of the filing of continuation statements or instruments of a similar character relating to the pledges and assignments made by the Borrower to the Issuer or the Trustee to or for the benefit of the Owner of the Bond as required by law in order to fully preserve and protect the rights of the Issuer, the Trustee and the Owner of the Bond, as the case may be;

(l) Promptly notify the Issuer, the Trustee, Majority Owner and the Servicer in writing of any (i) default by the Borrower in the performance or observance of any covenant, agreement, representation, warranty or obligation of the Borrower set forth in this Loan Agreement or any other Loan Documents or (ii) any event or condition which with the lapse of time or the giving of notice, or both would constitute an Event of Default under this Loan Agreement or any other Loan Documents; and

(m) Commence, pursue and complete construction and equipping of the Improvements as provided herein and in the Construction Disbursement Agreement; and Comply with all applicable state and local rules and regulations relating to the construction and operation of the Project, including, without limitation, all applicable minimum wage, prevailing wage or living wage requirements.

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

### **ARTICLE III**

#### **LOAN AND PROVISIONS FOR REPAYMENT**

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

(a) In order to finance a portion of the costs of the construction and equipping of the Project, the Issuer has, consistent with its duties and purpose under the Act and the Law, issued and caused the Trustee to authenticate and deliver the Bond pursuant to the Indenture to the initial Owner. The Bond bears interest and is payable as provided therein and in the Indenture. The Bond shall mature and all Outstanding principal of, Prepayment Equalization Payments,

interest and Additional Interest (if any) on such Bond shall be due and payable in full on the Maturity Date applicable thereto, all as provided more fully in the Bond and the Indenture.

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

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

(d) Concurrently with the sale and delivery of the Bond, and to evidence further the obligation to repay the Loan in accordance with the provisions of this Loan Agreement, the Borrower has executed and delivered the Note and the other Loan Documents.

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

(a) The Borrower shall pay to the Trustee, for deposit into the Revenue Fund: (i) on the first day of each month, commencing [\_\_\_\_\_] 1, 201[7] and continuing until the Conversion Date, an amount equal to the sum of (A) the interest due on the Bond on said date (after taking into account funds available for such purpose, if any, in the Capitalized Interest Account of the Project Fund), and (B) the principal due on the Bond on said date; and (ii) on and after the Conversion Date, the amount of interest and principal due pursuant to the terms of the Note related to the Tax-Exempt Bond, as supplemented by the Permanent Period Note Addendum; and (iii) on the first day of each month following the month in which Conversion occurs, amounts required to be deposited into the Tax and Insurance Fund (pursuant to Section 5.22(h) hereof) as of such date. Amounts so paid to the Trustee by the Borrower shall be in immediately available funds or shall be such that on the Bond Payment Date they are available funds.

(b) The Borrower understands that the interest rate applicable under the Note related to the Tax-Exempt Bond and with respect to the Tax-Exempt Bond is based upon the assumption that interest income paid on the Tax-Exempt Bond will be excludable from the gross income of the Owner under Section 103 of the Code and applicable state law. In the event that an Initial Notification of Taxability shall occur, then the interest rate on the Note related to the Tax-Exempt Bond and the Tax-Exempt Bond, and on all obligations under this Loan Agreement (other than those to which the Alternative Rate applies) shall, effective on the date of such Initial



Notification of Taxability, be increased to a rate equal to the Taxable Rate. The Borrower shall, in addition, pay to the Trustee, for deposit into the Revenue Fund, promptly upon demand from the Trustee or the Servicer, an amount equal to the Additional Interest payable on the Tax-Exempt Bond. The Borrower shall also indemnify, defend and hold the Owner, the Issuer and the Trustee harmless from any penalties, interest expense or other costs, including reasonable attorneys' fees (including all reasonably allocated time and charges of Owner's, Issuer's and Trustee's "in-house" and "outside" counsel) and accountants' costs, resulting from any dispute with the Internal Revenue Service concerning the proper tax treatment of the Tax-Exempt Bond and any interest payable to the Owner with respect to the Tax-Exempt Bond. The obligations of the Borrower under this Section 3.2(b) shall survive termination of this Loan Agreement and the Note and repayment of the Loan. If, following any increase in interest rates pursuant to this Section 3.2(b), a final determination is made, to the satisfaction of the Owner, that interest paid on the Tax-Exempt Bond is excludable from the Owner's gross income under Section 103 of the Code and applicable state law, the Owner shall promptly refund to the Borrower any Additional Interest and other additional amounts paid by the Borrower pursuant to this Section 3.2(b).

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

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

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

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

(g) Without limitation of the foregoing, the Borrower agrees to repay the Loan at the times and in the amounts necessary to enable the Trustee, on behalf of the Issuer, to pay all amounts payable with respect to the Bond, when due, whether at maturity or upon redemption, acceleration, tender, purchase or otherwise.

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

**Section 3.4** Obligations of Borrower Hereunder Unconditional. The obligations of the Borrower to make any payments required by the terms of this Loan Agreement and the other Loan Documents, including, without limitation, the payments required in Section 3.2 hereof, and to perform and observe the other agreements on its part contained herein and in the other Loan Documents shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of setoff, counterclaim, abatement or otherwise and, until such time as the principal of and interest on the Bond shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture. The Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for herein or in the other Loan Documents, (ii) will perform and observe all of its other agreements contained herein and the other Loan Documents and (iii) will not suspend the performance of its obligations hereunder and under the other Loan Documents for any cause, including, without limiting the generality of the foregoing, failure to complete construction and equipping of the Project, any acts or circumstances that may constitute failure of consideration, failure of or a defect of title to the Project or any part thereof, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement or the other Loan Documents. The Borrower may, at its own cost and expense and in its own name or in the name of the Issuer (provided the Issuer is a necessary party and consents thereto), prosecute or defend any action or proceeding or take any other action involving third persons which the Borrower deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Issuer, subject to the provisions of the Indenture, hereby agrees to cooperate fully with the Borrower and to take all action (at the Borrower's cost and expense) necessary to effect the substitution of the Borrower for the Issuer in any such action or proceeding if the Borrower shall so request.

## ARTICLE IV

### ADVANCES

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

## ARTICLE V

### SPECIAL COVENANTS OF THE BORROWER

**Section 5.1** Commencement and Completion of Project. The Borrower will commence construction and equipping of the Improvements within thirty (30) days after the Closing Date, will diligently pursue construction and equipping of the Improvements, will attain Completion prior to the Completion Date, and will pay all sums and perform all such acts as may be necessary or appropriate to complete such construction and equipping, all as more fully set forth in the Construction Disbursement Agreement.

**Section 5.2** Records and Accounts. The Borrower will (a) keep true and accurate records and books of account in which full, true and correct entries will be made in accordance with Generally Accepted Accounting Principles, which records and books will not be maintained on a consolidated basis with those of any other Person, including any Affiliate of the Borrower, (b) maintain adequate accounts and reserves for all taxes (including income taxes), depreciation and amortization of its properties, contingencies, and other reserves, all of which accounts shall not be commingled with accounts of any other Person, including any or Affiliate of the Borrower and (c) maintain all such records as are necessary to evidence compliance with the requirements of the Regulatory Agreement, the Tax Certificate and the Borrower Cost Certificate.

**Section 5.3** Financial Statements and Information. The Borrower will deliver, or cause to be delivered, to the Issuer and the Servicer:

(a) as soon as available, but in any event not later than one hundred fifty (150) days after the end of each fiscal year of the Borrower, beginning for the year ended December 31, 2016, the audited balance sheet of the Borrower at the end of such year, and the related audited statement of income, statement of retained earnings, changes in capital, and statement of cash flows for such year, and a statement of all contingent liabilities of the Borrower which are not reflected in such financial statements or referred to in the notes thereto, each setting forth in comparative form the figures for the previous fiscal year and all such statements to be in

reasonable detail, prepared in accordance with Generally Accepted Accounting Principles, and accompanied by an auditor's report prepared without qualification by the Accountant; provided, however, no such financial report shall be required to be delivered pursuant to this subsection (a) until the fiscal year during which an Event of Default occurs under any Loan Document or the Project receives a TCO whichever comes first;

(b) as soon as available, but in any event not later than one hundred fifty (150) days after the end of each fiscal year of the General Partner, beginning for the year ended December 31, 2016, the unaudited balance sheet of the General Partner at the end of such year, and the related unaudited statement of income, statement of retained earnings, changes in capital and statement of cash flows for such year, and a statement of all contingent liabilities of the General Partner which are not reflected in such financial statements or referred to in the notes thereto, each setting forth in comparative form the figures for the previous fiscal year and all such statements to be in reasonable detail, prepared in accordance with Generally Accepted Accounting Principles; provided, however, no such financial reports shall be required to be delivered pursuant to this subsection (b) until the fiscal year during which an Event of Default occurs under any Loan Document or the Project receives a TCO whichever comes first;

(c) as soon as available, but in any event not later than one hundred fifty (150) days after the end of each fiscal year of each Guarantor, beginning for the fiscal year ended December 31, 2016, the reviewed balance sheet of each Guarantor at the end of such year, and the related audited statement of income, statement of retained earnings, changes in capital, and statement of cash flows for such year, and a statement of all contingent liabilities of the Guarantor which are not reflected in such financial statements or referred to in the notes thereto, each setting forth in comparative form the figures for the previous fiscal year and all such statements to be in reasonable detail, prepared in accordance with Generally Accepted Accounting Principles, and accompanied by an auditor's report prepared without qualification by the Accountant and as soon as available but no later than thirty (30) days following filing, a copy of federal and state tax returns of [INDIVIDUAL GUARANTORS] for each calendar year ending December 31 through Conversion;

(d) as soon as available, but in any event not later than thirty (30) days after the end of each calendar month commencing with the month which construction of the Project is substantially complete and continuing until the calendar month in which Conversion occurs, copies of the balance sheet of the Borrower as at the end of such month, and the related statement of income, statement of retained earnings, changes in capital, and statement of cash flows for the portion of the Borrower's fiscal year then elapsed, all in reasonable detail and prepared in accordance with Generally Accepted Accounting Principles, together with a certification by the chief financial officer of the Borrower that the information contained in such financial statements fairly present the financial position of the Borrower on the date thereof (subject to year-end adjustments);

(e) within thirty (30) days after the end of each calendar month, commencing with the month in which the construction of the Project is substantially complete and continuing until the month in which Conversion occurs, (i) a current rent roll and schedule of aging lease receivables as of the end of such month, in form and level of detail reasonably acceptable to the Servicer, detailing, with respect to each Lease, the tenant's name, the Lease date, the premises demised,

the term, the rent, the security deposit and any rent paid more than one month in advance, (ii) a leasing report setting forth the Borrower's efforts to market and lease the then unleased space in the Improvements and the results of such efforts, accompanied by a certificate of the Borrower in the form attached hereto as Exhibit E, and (iii) an operating report for the Project for such month, in form and level of detail reasonably acceptable to the Servicer, together with a certification by the chief financial officer that the information in all of the items required pursuant to this Section 5.3(e) is true and correct in all material respects;

(f) [reserved];

(g) quarterly, on the first day of each calendar quarter beginning with the quarter in which the Project achieves Completion and ending in the quarter in which the Project achieves Conversion, a certificate in the form set forth in Exhibit F hereto;

(h) contemporaneously with the filing or mailing thereof, copies of all material of a financial nature filed with the Securities and Exchange Commission or sent to the stockholders, partners, members or beneficiaries of the Borrower and any Affiliate thereof, if any;

(i) on or before December 1 of each year, a copy of the Proposed Budget, and on or before January 30 of each year, a copy of the Approved Budget; and

(j) from time to time such other financial data and information related to the Borrower, the General Partner and the Project as the Issuer, the Trustee, Majority Owner or the Servicer may reasonably request.

#### **Section 5.4 Insurance.**

(a) The Borrower will obtain and maintain insurance with respect to the Project and the operations of the Borrower as required from time to time by the Servicer. The initial insurance requirements are set forth on Exhibit E hereto. On and after the Conversion Date, the insurance requirements required with respect to the Project and the operations of the Borrower shall be governed by the terms of the Permanent Period Supplemental Agreement. All renewal policies, with premiums paid, shall be delivered to the Servicer at least thirty (30) days before expiration of the existing policies. If any such insurance shall expire or be canceled, or become void or voidable by reason of the breach of any condition of coverage, or if the Servicer determines that any coverage is unsatisfactory by reason of the failure or impairment of the capital of any insurance carrier, or if any insurance is unsatisfactory to the Servicer, in its sole judgment, the Borrower shall promptly place new insurance satisfactory to the Servicer.

(b) The Borrower will provide the Trustee, Majority Owner and the Servicer with certificates evidencing such insurance upon the request of the Servicer.

(c) If the Borrower fails to provide, maintain, keep in force or deliver to the Servicer the policies of insurance and certificates required by this Loan Agreement, the Servicer may (but shall have no obligation to) procure such insurance, and the Borrower will pay all premiums thereon promptly on demand by the Servicer, and until such payment is made by the Borrower, the amount of all such premiums shall bear interest at the Alternative Rate.

**Section 5.5** Liens and Other Charges. The Borrower will duly pay and discharge, cause to be paid and discharged, or provide a bond satisfactory to the Servicer to pay or discharge, before the same shall become overdue all claims for labor, materials, or supplies that if unpaid might by law become a lien or charge upon any of its property.

**Section 5.6** Inspection of Project and Books, Appraisals.

(a) The Borrower shall permit the Issuer, the Trustee, Majority Owner and the Servicer upon reasonable written notice at reasonable times, at the Borrower's cost and expense, to visit and inspect the Project and all materials to be used in the construction and equipping thereof and will cooperate with the Issuer, the Trustee, Majority Owner and the Servicer during such inspections (including making available working drawings of the Plans and Specifications), provided that this provision shall not be deemed to impose on the Issuer, the Trustee, Majority Owner and the Servicer any obligation to undertake such inspections.

(b) The Borrower shall permit the Issuer, the Trustee, Majority Owner and the Servicer, upon reasonable notice at reasonable times, at the Borrower's cost and expense, to examine the books of account of the Borrower and the Project (and to make copies thereof and extracts therefrom) and to discuss the affairs, finances and accounts of the Borrower and the Project with, and to be advised as to the same by, its officers, partners, or trustees, all at such reasonable times and intervals as the Issuer, the Trustee, Majority Owner and the Servicer may reasonably request, provided that so long as no Default or Event of Default shall have occurred and be continuing, the Borrower shall only be obligated to pay the expenses associated with one (1) such investigation during any twelve (12) month period.

(c) The Issuer, the Trustee, Majority Owner and the Servicer shall have the right to obtain from time to time, at the Borrower's cost and expense, updated Appraisals of the Project, provided that so long as no Default or Event of Default shall have occurred and be continuing, the Borrower shall only be obligated to pay for the costs and expenses associated with one (1) such Appraisal during any twelve (12) month period.

(d) The costs and expenses incurred by the Issuer, the Trustee, Majority Owner and the Servicer in obtaining such Appraisals or performing such inspections shall be paid by the Borrower promptly upon billing or request by the Issuer, the Trustee, Majority Owner and the Servicer for reimbursement.

**Section 5.7** Compliance with Laws, Contracts, Licenses, and Permits. The Borrower will comply with (a) all Legal Requirements, (b) the provisions of its Organizational Documents, (c) all applicable decrees, orders and judgments, and (d) all licenses and permits required by applicable laws and regulations for the conduct of its business or the ownership, use or operation of its properties, including all Project Approvals.

**Section 5.8** Use of Proceeds. In accordance with the Development Budget, the Borrower will use the proceeds of the Tax-Exempt Bond solely for the purpose of paying for Qualified Costs of the Project.

**Section 5.9** Borrower to Pay Excess Project Costs. The Borrower will pay when due all costs of acquisition, construction and equipping of the Project in excess of the proceeds of the

Bond, regardless of the amount. If at any time, the Servicer shall in its sole discretion determine that the remaining undisbursed portion of the Project Fund, together with the undisbursed balance of Required Equity Funds, and any other sums previously deposited or to be deposited by the Borrower in connection with the Project, is or will be insufficient to complete the construction and equipping of the Improvements in accordance with the Plans and Specifications, to operate and carry the Project after Completion until Conversion, to pay all other Project Costs, to pay all interest accrued or to accrue on the Bond from and after the date hereof or until Conversion, and to pay all other sums due or to become due under the Loan Documents (or any budget category or line item), regardless of how such condition may be caused, the Borrower will, within ten (10) days after written notice of such determination from the Servicer, deposit with the Trustee such sums of money in cash as the Servicer may reasonably require, in an amount sufficient to remedy the condition described in such notice, and sufficient to pay any liens for labor and materials alleged to be due and payable at the time in connection with the Improvements other than those being contested in good faith and for which a bond has been posted, and, at the Servicer's direction, no further disbursements from the Project Fund shall be made by the Trustee until the provisions of this Section have been fully complied with. The Servicer may direct the Trustee to enforce the Payment Guaranty and the Completion Agreement in accordance with their terms, and upon such direction, the Trustee shall proceed to enforce the Completion Agreement. All such deposited sums shall constitute additional security under the Loan Documents and, prior to the occurrence of a Default, shall be disbursed by the Trustee in the same manner as disbursements under the Indenture before any further disbursements from the Project Fund shall be made by the Trustee. Notwithstanding the above, in the event amounts deposited hereunder are actually in excess of the amount necessary to achieve Completion, such excess amounts shall be returned to the Borrower in accordance with Section 5.03 of the Indenture.

**Section 5.10 Laborers, Subcontractors and Materialmen.** The Borrower will furnish to the Issuer, the Trustee, Majority Owner or the Servicer, upon reasonable request, and from time to time, affidavits listing all laborers, subcontractors, materialmen, and any other Persons who might or could claim statutory or common law liens and are furnishing or have furnished labor or material to the Project or any part thereof, together with affidavits, or other evidence satisfactory to the Issuer, the Trustee or the Servicer, showing that such parties have been paid all amounts then due for labor and materials furnished to the Project, that the applicable lien period has expired without the filing of a claim, or the liens have been bonded. The Borrower will also furnish to the Issuer, the Trustee, Majority Owner and the Servicer, at any time and from time to time upon reasonable request by the Issuer, the Trustee, Majority Owner or the Servicer, lien waivers bearing a then current date and prepared on a form satisfactory to the Issuer, the Trustee, Majority Owner or the Servicer from the Contractor and such subcontractors or materialman as the Issuer, the Trustee, Majority Owner or the Servicer may designate.

**Section 5.11 Further Assurance of Title.** If at any time the Servicer has reason to believe that any disbursement from the Project Fund is not secured or will or may not be secured by the Mortgage as a first priority mortgage lien and security interest on the Property, then the Borrower shall, within ten (10) days after written notice from the Servicer, do all things and matters necessary to assure to the satisfaction of the Servicer that any disbursement from the Project Fund previously made hereunder or to be made hereunder is secured or will be secured by the Mortgage as a first priority mortgage lien and security interest on the Property, and the

Servicer, at its option, may decline to approve any further Requisitions until the Servicer has received such assurance. Nothing in this Section shall limit the right of the Servicer, at the Borrower's expense, to order searches of title from time to time and to require bringdowns or endorsements extending the effective date of the Title Policy in connection with the making of advances as herein set forth.

**Section 5.12 Publicity.** The Borrower will permit the Servicer to obtain publicity in connection with the acquisition, construction and equipping of the Improvements through press releases and participation in such events as ground breaking and opening ceremonies and placement of signs on the Project Site.

**Section 5.13 Further Assurances.**

(a) **Regarding Construction.** The Borrower will furnish or cause to be furnished to the Issuer, Majority Owner and the Servicer all instruments, documents, boundary surveys, footing or foundation surveys, certificates, plans and specifications, title and other insurance, reports and agreements and each and every other document and instrument required to be furnished by the terms of this Loan Agreement or the other Loan Documents, all at the Borrower's expense.

(b) **Regarding Preservation of Collateral.** The Borrower will execute and deliver to the Issuer, the Trustee, Majority Owner and the Servicer such further documents, instruments, assignments and other writings, and will do such other acts necessary or desirable, to preserve and protect the collateral at any time securing or intended to secure the obligations of the Borrower under the Loan Documents, as the Issuer, the Trustee, Majority Owner and the Servicer may require.

(c) **Regarding this Loan Agreement.** The Borrower will cooperate with, and will do such further acts and execute such further instruments and documents as the Issuer, the Trustee, Majority Owner and the Servicer shall reasonably request to carry out to their satisfaction the transactions contemplated by this Loan Agreement and the other Loan Documents.

(d) **Bank of Account.** Prior to the Conversion Date, the Borrower will utilize Bank as its principal bank of account, including all construction disbursement, operating accounts, and reserve accounts.

**Section 5.14 Notices.** The Borrower will promptly notify the Issuer, the Trustee, Majority Owner and the Servicer in writing of (i) the occurrence of any Default or Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute a Default or Event of Default; (ii) the Borrower's receipt of notice from any Governmental Authority of any alleged violation of environmental laws or regulations or other Legal Requirements; (iii) any labor problems with respect to the Borrower or the Project; (iv) the occurrence of any other event which would have a material adverse effect on the Project or the business or financial condition of the Borrower; or (v) the receipt by the Borrower of any notice of default or notice of termination with respect to any contract or agreement relating to the ownership, construction, equipping, operation, or use of the Project.



**Section 5.15 Solvency; Adequate Capital.** The Borrower will:

- (a) Remain solvent and pay all of its indebtedness from its assets as the same become due; and
- (b) Maintain adequate capital for the normal obligations reasonably foreseeable for a business of its size and character and in light of its contemplated business operations.

**Section 5.16 Management Contract.**

(a) At all times following Completion, the Project shall be managed pursuant to a management contract with the Manager, which contract shall be terminable with or without cause by the Borrower or its successors as owner of the Project and shall otherwise be in form and substance satisfactory to Majority Owner and the Servicer. The Borrower acknowledges that the Issuer, the Trustee, Majority Owner and the Servicer will rely on the Manager's experience in operating properties such as the Project as a means of maintaining the value of the collateral. In connection with the approval of the Manager, or any replacement management company:

(i) the Manager or holder of the stock or partnership interest therein shall be a Person whose character, financial strength, stability and experience is acceptable to the Servicer and who shall have experience managing properties of a type and size reasonably similar to the Project;

(ii) the Manager shall deliver all organizational documentation and other materials evidencing its experience acceptable to Majority Owner and the Servicer; and

(iii) the terms of any management contract shall provide for management fees in excess of [\_\_\_\_\_] % of the Project Revenues to be subordinate to payments owed by the Borrower under the Loan Documents and otherwise must be acceptable to Majority Owner and the Servicer in all respects.

(b) The Borrower shall, from time to time, obtain from the Manager such certificates of estoppel with respect to compliance by the Borrower with the terms of the management contract as may be requested by the Servicer, the Trustee, Majority Owner and the Servicer.

(c) The Project will be managed by the Manager pursuant to the Management Agreement. The Borrower acknowledges and agrees that Trustee, as mortgagee under the Mortgage, is and shall be a third-party beneficiary of the Management Agreement and any replacement management agreement. Any amendment to the Management Agreement or delivery of a replacement management agreement must be approved in writing by Majority Owner and the Servicer.

**Section 5.17 Negative Covenants of the Borrower.** The Borrower covenants and agrees that, so long as the Loan is outstanding:

(a) **Restrictions on Easements and Covenants.** Except for Permitted Encumbrances and matters permitted by Section 5.17(d), the Borrower will not create or suffer to be created or to exist any easement, right of way, restriction, covenant, condition, license or other right in

favor of any Person which affects or might affect title to the Project or the use and occupancy of the Project or any part thereof without obtaining the prior written consent of the Servicer, which shall not be unreasonably withheld or delayed so long as the proposed action is necessary for the operation of the Project for the purposes contemplated hereby and the proposed action does not materially impair the validity or priority of the lien of the Mortgage.

(b) No Amendments, Terminations or Waivers. Neither the Borrower nor the General Partner shall amend, supplement, terminate or otherwise modify or waive any provision of its Organizational Documents, the documents evidencing the Subordinate Loan or any material term or provision of the documents relating to the contribution of equity by the partners of the Borrower without obtaining the prior written consent of the Servicer.

(c) Restrictions on Indebtedness. Without obtaining the prior written consent of the Servicer, the Borrower will not create, incur, assume, guarantee or be or remain liable, contingently or otherwise, with respect to any Indebtedness other than:

(i) Indebtedness arising under the Loan Documents or the Partnership Agreement and Indebtedness arising under the Subordinate Loans;

(ii) current liabilities of the Borrower relating to the Project, incurred in the ordinary course of business but not incurred through (A) the borrowing of money, or (B) the obtaining of credit except for credit on an open account basis customarily extended and in fact extended in connection with normal purchases of goods and services; and

(iii) Indebtedness relating to the Project, in respect of taxes, assessments, governmental charges or levies, claims for labor, materials and supplies and costs arising under the CC&RS to the extent that payment therefor shall not at the time be required to be made.

(d) Restrictions on Liens. Without obtaining the prior written consent of the Servicer, the Borrower will not (i) create or incur or suffer to be created or incurred or to exist any lien, encumbrance, deed to secure debt, mortgage, deed of trust, pledge, charge, restriction or other security interest of any kind upon any of its property or assets of any character whether now owned or hereafter acquired, or upon the income or profits therefrom; (ii) transfer any of its property or assets or the income or profits therefrom for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to payment of its general creditors; (iii) acquire, or agree or have an option to acquire, any property or assets upon conditional sale or other title retention or purchase money security agreement, device or arrangement; (iv) suffer to exist for a period of more than thirty (30) days after the same shall have been incurred any Indebtedness or claim or demand against it that if unpaid might by operation of law or upon bankruptcy or insolvency, or otherwise, be given any priority whatsoever over its general creditors; or (v) sell, assign, pledge or otherwise transfer any accounts, contract rights, general intangibles, chattel paper or instruments, with or without recourse, provided that the Borrower may create or incur or suffer to be created or incurred or to exist:

(A) Statutory liens relating to the project to secure taxes, assessments and other governmental charges or claims for labor, material or supplies in respect of obligations not overdue;

(B) Liens in favor of the Issuer and/or the Trustee under the Loan Documents;  
and

(C) The Permitted Encumbrances.

(e) Transfers.

(i) Except for Permitted Encumbrances and a declaration of restrictive covenants for low-income housing credits in a form approved by the Servicer, without obtaining the prior written consent of Majority Owner and the Servicer (and the Issuer, as required under the Regulatory Agreement), the Borrower will not, directly or indirectly, by operation of law or otherwise, sell, assign, mortgage, pledge, hypothecate, transfer or otherwise dispose of the Project or any interest in the Project, and will not encumber, alienate, hypothecate, grant a security interest in or grant any other interest whatsoever (whether superior or inferior to the lien of the Mortgage) in the Project, in the Leases or in the rents, issues and profits therefrom.

(ii) Except as otherwise permitted by the Construction Disbursement Agreement or the Deed of Trust, without obtaining the prior written consent of the Servicer (and the Issuer; to the extent required under the Regulatory Agreement), no general or limited partnership interest in the Borrower and no ownership interest in the General Partner may be sold, conveyed, transferred, assigned, pledged or otherwise transferred, in whole or in part, directly or indirectly, by operation of law or otherwise; provided, however, that the following transfers may occur with notice to, but without the consent of, the Servicer:

(A) the Investor Limited Partner may at any time and without the consent of the Servicer, the Issuer or Trustee transfer, but upon at least twenty (20) days' prior written notice to Issuer, Trustee and Majority Owner, sell, or assign its limited partner interest in the Borrower to any Affiliate or to any limited partnership of which Bank of America, N.A., or any Affiliate thereof, is a general partner, or to any limited liability company of which Bank of America, N.A., or any Affiliate thereof, is the managing member, and upon the assumption by any such transferee of the obligations of the transferor hereunder, the transferor shall be automatically released from further liability hereunder as the Investor Limited Partner.

(B) After the Restricted Period (as defined below), the Investor Limited Partner may at any time and without the consent of the Servicer, Majority Owner, or Trustee, but in conformance with the requirement of the Regulatory Agreement, transfer, sell, assign or pledge its interest in the Borrower to any third party. The Investor Limited Partner shall give notice of such transfer, sale or assignment to the Trustee not less than twenty (20) days prior to such transfer, sale or assignment (but no such notice shall be required in the case of a pledge or collateral assignment by the Investor Limited Partner of its limited partner interest in the Borrower). "Restricted Period" shall be defined as the

period first to occur of the making of the [Fourth Installment] (as defined in the Partnership Agreement) or an event that gives the Investor Limited Partner the right to require the repurchase of its interest under Section [5.11] of the Partnership Agreement. The Investor Limited Partner shall provide written notice to the Trustee, Issuer, Majority Owner and Servicer of the end of the Restricted Period.

(f) Merger, Consolidation, Conversion and Disposition of Assets.

(i) The Borrower will not become a party to any merger or consolidation or agree to or effect any asset acquisition or stock acquisition.

(ii) The Borrower will not convert into any other type of entity.

(iii) The Borrower will not seek the dissolution or winding up, in whole or in part, of the Borrower or voluntarily file, or consent to the filing of, a petition for bankruptcy, reorganization, assignment for the benefit of creditors or similar proceedings.

(g) Sale and Leaseback. The Borrower will not enter into any arrangement, directly or indirectly, whereby the Borrower shall sell or transfer any property owned by it in order then or thereafter to lease such property or lease other property that the Borrower intends to use for substantially the same purpose as the property being sold or transferred.

(h) Preservation of Tax Exemption. The Borrower will not take any action that would adversely affect the exclusion of interest on the Tax-Exempt Bond from gross income for purposes of federal income taxation, nor omit or fail to take any action required to maintain the exclusion of interest on the Tax-Exempt Bond from gross income for purposes of federal income taxation.

**Section 5.18** Arbitrage and Tax Matters.

(a) The Borrower hereby represents, warrants and agrees that all certifications and representations of fact made by the Borrower in the Regulatory Agreement, the Tax Certificate and the Borrower Cost Certificate are true, accurate and complete in all material respects of the date on which executed and delivered.

(b) The Borrower covenants not to cause or direct any moneys on deposit in any fund or account to be used in a manner which would cause the Bond to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code, and the Borrower certifies and covenants to and for the benefit of the Issuer and the Owner that so long as there is any portion of the Bond Outstanding, moneys on deposit in any fund or account in connection with the Bond, whether such moneys were derived from the proceeds of the sale of the Bond or from any other sources, will not be used in a manner which will cause the Bond to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. In furtherance of the foregoing, the Borrower covenants to comply with the terms and conditions of Tax Certificate and to pay when due any amount required to be paid to the United States in accordance with Tax Certificate and this Loan Agreement.

(c) At any time when any amount required to be paid under Section 148(f) of the Code (the “**Rebate Regulations**”) is due, the Borrower shall pay to the United States on behalf of the Issuer the full amount then required to be paid under the Rebate Regulations. Within sixty (60) days after the Bond has been paid in full, the Borrower shall pay to the United States on behalf of the Issuer the full amount then required to be paid under the Rebate Regulations. Each such payment shall be made to such location specified by the Internal Revenue Service, accompanied by a Form 8038-T (or other appropriate information reporting form) prepared by the Borrower. No later than fifteen (15) days prior to each date on which a payment could become due under the Rebate Regulations (“**Rebate Payment Date**”), the Borrower shall deliver to the Issuer and the Trustee a certificate of a Rebate Analyst either summarizing the determination that no amount is required to be paid or specifying the amount then required to be paid, if the certificate specifies an amount to be paid, (A) such certificate shall be accompanied by a completed Form 8038-T, which is to be signed by an Authorized Representative of the Issuer, and shall include a certification by the Borrower that the Form 8038-T is accurate and complete, and (B) no later than ten (10) days after the Rebate Payment Date, the Borrower shall furnish to the Issuer and the Trustee a certificate state that such amount has been timely paid. This Section 5.18(c) shall be construed so as to cause compliance with the Rebate Regulations. The Borrower covenants that all action taken under this Section 5.18(c) shall be taken in a manner that complies with the Rebate Regulations and that it shall neither take any action nor omit to take any action that would cause the Bond to be an “arbitrage bond” by reason of the failure to comply with the Rebate Regulations. To the extent that any payment of rebatable arbitrage or penalty in lieu of rebate is not timely made to the United States, the Borrower shall pay to the United States on behalf of the Issuer any correction amount, interest, penalty or other amount necessary to prevent the Bond from becoming an “arbitrage bond” within the meaning of Section 148 of the Code. The Borrower covenants that, to the extent necessary, it shall obtain the advice and assistance of a Rebate Analyst to aid it in complying with the Rebate Regulations.

**Section 5.19 Indemnification.** Borrower releases Issuer, Trustee, Majority Owner and the Servicer 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, Majority Owner and the Servicer 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 Loan Documents or the Indenture or otherwise in connection with the Project, the Bond, 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 Loan 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 Bond 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 Loan Documents or any other documents relating to the Project or the Bond 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 Loan 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 Loan 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 Certificate 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 Bond or failure to comply with any licensing or other law or regulation which would affect the manner in which or to whom the Bond could be sold and the carrying out by Borrower of any of the transactions contemplated by the Indenture or the Loan Documents;
- (h) Borrower's failure to comply with any requirement of this Loan 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, Majority Owner, Servicer or any of their respective 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 agrees 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 5.19 shall in any way limit the Borrower’s indemnification and other payment obligations set forth in the Regulatory Agreement.

**Section 5.20** Agreements Between Borrower and its Affiliates. Except for the Partnership Agreement, Development Agreement and Management Agreement, the Borrower shall not enter into any agreement, written or otherwise, directly or indirectly relating to the Project with an Affiliate of the Borrower without the prior written consent of the Servicer.

**Section 5.21** Sale of Bond and Securitization.

(a) At the request of the Servicer, and subject to the limitations on sale or transfer of the Bond set forth in the Indenture, the Borrower shall take such actions and execute and deliver such documents and data as may be reasonably necessary or appropriate in connection with the sale of the Bond or participation therein or any securitization (such sale and/or securitization, the “**Securitization**”) of single or multiclass securities (the “**Securities**”) secured by or evidencing ownership interests in the Bond. Without limiting the generality of the foregoing, the Borrower shall:

(i) provide financial and other information with respect to the Project, the Borrower and its Affiliates, the manager and any tenants of the Project and provide business plans and budgets relating to the Project;

(ii) perform or permit or cause to be performed or permitted such site inspection, appraisals, market studies, environmental reviews and reports (Phase I and, if appropriate, Phase II), engineering reports and other due diligence investigations of the Project, as may be reasonably requested by the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with the Securitization (the items provided to the Servicer 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 Servicer and the Rating Agencies;

(iii) cause counsel to render opinions as to nonconsolidation, fraudulent conveyance, true sale and true contribution and any other opinion customary in securitization



transactions with respect to the Project, the Borrower and its Affiliates, which counsel and opinions shall be satisfactory to the Servicer and the Rating Agencies;

(iv) make such representations and warranties as of the closing date of the Securitization with respect to the Project, the Borrower and the Loan Documents as are customarily provided in securitization transactions and as may be reasonably requested by the Servicer or the Rating Agencies and consistent with the facts covered by such representations and warranties as they exist on the date thereof, including the representations and warranties made in the Loan Documents;

(v) provide current certificates of existence with respect to the Borrower from appropriate Governmental Authorities; and

(vi) execute such amendments to the Loan Documents and the Organizational Documents of the Borrower as may be requested by the Servicer or the Rating Agencies or otherwise to effect the Securitization; so long as such amendments do not materially increase the burden on or materially reduce the benefits of the financing provided pursuant to this Agreement to the Borrower.

(b) All reasonable third-party costs and expenses incurred by the Borrower solely in connection with the Borrower's complying with requests made under this Section 5.21 shall promptly be paid or caused to be paid by the Servicer. The Borrower shall not be liable for third-party costs or expenses incurred by the Servicer in connection with the Securitization.

(c) The Borrower understands that certain of the Provided Information may be included in disclosure documents in connection with the Securitization, including a prospectus or private placement memorandum (each, a "**Disclosure Document**") and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "**Securities Act**"), or the Securities and Exchange Act of 1934, as amended (the "**Exchange Act**"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, the Borrower shall cooperate with the Servicer in updating the Provided Information for inclusion or summary in the Disclosure Document by providing all current information pertaining to the Borrower and the Project necessary to keep the Disclosure Document accurate and complete in all material respects with respect to such matters.

(d) In connection with a preliminary and a final private placement memorandum or prospectus, as applicable, the Borrower agrees, if requested by the Servicer, to certify in writing that the Borrower has carefully examined those portions of such memorandum or prospectus, as applicable, pertaining to the Borrower and the Project and such sections (and any other sections reasonably requested and pertaining to Borrower and the Project) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading.

(e) The Borrower's liability under this Section 5.21 shall be limited to liabilities arising out of or based upon any such material untrue statement or omission made with

knowledge thereof and made therein in reliance upon and in conformity with information furnished to the Servicer by or on behalf of the Borrower in connection with the preparation of those portions of the Disclosure Document pertaining to the Borrower or the Project or in connection with the underwriting of the debt, including financial statements of the Borrower, operating statements, rent rolls, environmental site assessment reports and property condition reports with respect to the Project.

**Section 5.22 Funds.** The Borrower acknowledges the creation of the Replacement Reserve Fund, the Operating Reserve Fund and the Tax and Insurance Fund pursuant to the Indenture. The Replacement Reserve Fund, the Operating Reserve Fund and the Tax and Insurance Fund shall be funded, and moneys therein shall be disbursed, in accordance with the provisions of the Indenture and this Section 5.22. Notwithstanding the foregoing or any other provision of this Loan Agreement to the contrary, on and after the Conversion Date, (i) the Replacement Reserve Fund shall be funded and moneys therein shall be disbursed pursuant to the terms of the Permanent Period Replacement Reserve Agreement, and (ii) the Operating Reserve Fund shall be funded and moneys therein shall be disbursed pursuant to the terms of the Permanent Period Supplemental Agreement.

(a) On or before December 1 of each year, the Borrower shall submit to the Servicer for approval the Proposed Budget to be effective for the next following year. The Servicer shall have the right to approve or disapprove any Proposed Budget or any line item contained in such Proposed Budget. If any Proposed Budget is not approved by the Servicer within thirty (30) days following submission by the Borrower, such Proposed Budget shall be deemed disapproved. If any line item or Proposed Budget is disapproved, the Borrower shall thereafter consult for an additional thirty (30) days with the Servicer in an effort to achieve mutually acceptable Approved Budget. To the extent that the Proposed Budget is disapproved, the Approved Budget for the previous year shall remain in effect, increased by 5% over the previous year (except for costs of utilities, real estate taxes and assessments and insurance and other third-party costs or cost associated with remediation of emergency conditions which shall be permitted variances to the Proposed Budget) until the parties resolve their differences. In addition to, and not in limitation of the foregoing, each Approved Budget may be revised from time to time with prior written consent of the Servicer to reflect changes to items set forth in the then-current Approved Budget.

(b) Each Proposed Budget:

(i) shall be prepared on the basis of sound accounting practices consistently applied;

(ii) shall reflect the projected gross revenues and operating expenses regarding the Project;

(iii) shall reflect all projected Capital Expenditures which are reasonably expected to be made in connection with the Project during the year covered by such Proposed Budget; and

(iv) shall contain such other information as reasonably may be requested by the Servicer.

(c) On each Interest Payment Date, beginning with the first Interest Date following Conversion, the Borrower shall deposit an amount equal to one-twelfth (1/12) of the Unit Reserve Amount in the Replacement Reserve Fund; provided, however, that upon and after the Conversion Date, deposits to the Replacement Reserve Fund shall be governed by the terms and requirements of the Permanent Period Replacement Reserve Agreement.

(d) Except as otherwise provided in this Section, before the Servicer shall authorize the disbursement of any amounts from the Replacement Reserve Fund, the Borrower shall submit the following items to the Servicer for its review and approval:

(i) a requisition from the Borrower stating that no Event of Default exists and requesting the Servicer to approve a disbursement;

(ii) the identity of all general contractors, architects, engineers and other professionals, if any, engaged in connection with the proposed capital expenditures along with copies of the contracts entered into between the Borrower and such entities;

(iii) copies of the plans and specifications for the work to be done, if required or produced in connection with the work contemplated;

(iv) if requested by the Servicer, evidence of compliance with all applicable Legal Requirements;

(v) if requested by the Servicer in connection with construction work in excess of \$10,000, evidence of builders' risk insurance along with workers' compensation and public liability insurance in such amounts and in such form as the Servicer may reasonably require;

(vi) if requested by the Servicer in connection with construction work in excess of \$10,000, evidence that the Consulting Engineer shall have inspected and approved of the work performed to date;

(vii) copies of bills or invoices documenting the proposed expenditure (with paid receipts or other evidence of payment for such Capital Expenditures to be provided to the Servicer before the next requested requisition and in any event within ten (10) days of disbursement to the Borrower of the requested payment); and

(viii) evidence that the general contractor has delivered and filed effective mechanics lien waivers prior to the commencement of work or, if such waivers were not delivered and filed, a release of liens in connection with all work performed, which releases may be conditioned upon payment to the general contractor, provided that the general contractor delivers unconditional releases within thirty (30) days of receipt of such payment.

(e) Provided the conditions set forth in Section 5.22(d) have been satisfied (or waived in writing by the Servicer), the Servicer shall authorize the disbursement from the Replacement

Reserve Fund of the amount requested by the Borrower in its requisition, or such lesser amount approved by the Consulting Engineer, to the Borrower. It shall be a condition to all withdrawals from the Replacement Reserve Fund that (i) all work shall be performed in a good and workmanlike manner and in compliance with all applicable Legal Requirements, (ii) the Servicer shall have reviewed and approved each of the foregoing requirements, (iii) the work to be performed is consistent with the Approved Budget or the recommendations of the Consulting Engineer, and (iv) sufficient amounts are on deposit in the Replacement Reserve Fund to pay the amount requisitioned.

(f) For any single Capital Expenditure (not part of, or related to, a sequence or a series of Capital Expenditures or a particular capital improvement plan or project) costing less than \$5,000 and whether or not described in the Approved Budget, the Borrower, upon completion of the work, shall deliver to the Servicer evidence reasonably satisfactory to the Servicer of such completion and shall deliver to the Servicer invoices for such work, and, for all of such subsequent disbursements from the Replacement Reserve Fund, the Borrower shall deliver evidence of payment in full for all invoices pertaining to the previous disbursement from the Replacement Reserve Fund, whereupon the Servicer shall authorize reimbursement of the cost of the Capital Expenditure from the Replacement Reserve Fund to the Borrower or, at the Servicer's option, to the contractors to whom such funds are owed.

(g) For any Capital Expenditure (not part of or related to a sequence or series of Capital Expenditures) costing \$5,000 or more which is to be paid from the Replacement Reserve Fund, before entering into any contracts in connection with such Capital Expenditure (whether or not the Capital Expenditure was described in the Approved Budget), the Borrower shall submit to the Servicer for its prior review and approval (which shall not be unreasonably withheld or delayed) copies of the proposed contracts to be entered into with respect to such Capital Expenditure and copies of the proposed plans and specifications for the Capital Expenditure. Once the Capital Expenditure is approved in advance by the Servicer, the provisions of Section 5.22(d) shall apply. Upon completion of such work, the Borrower shall deliver to the Servicer evidence reasonably satisfactory to the Servicer of such completion and shall deliver to the Servicer invoices for such work and, for all of such subsequent disbursements from the Replacement Reserve Fund, the Borrower shall deliver evidence of payment in full for all invoices pertaining to the previous disbursement from the Replacement Reserve Fund, whereupon the Servicer shall authorize reimbursement of the cost of the Capital Expenditure from the Replacement Reserve Fund to the Borrower, or, at the Servicer's option, the contractors to whom such costs are owed.

(h) On each Interest Payment Date, beginning with the first month after the Conversion Date, the Borrower shall deposit funds into the Tax and Insurance Fund in an amount equal to one-twelfth (1/12) of the amount reasonably estimated by the Servicer to be payable during the current year for real estate taxes and insurance premiums with respect to the Project; provided, however, that upon and after the Conversion Date, deposits to the Tax and Insurance Fund shall be governed by the terms and requirements of the Permanent Period Supplemental Agreement.

(i) On or before the Conversion Date, the Borrower shall deposit \$[\_\_\_\_\_] of its own funds into the Operating Reserve Fund. Moneys in the Operating Reserve Fund shall be

disbursed only upon the authorization of the Servicer. To the extent that Project Revenues are insufficient to pay Operating Expenses and/or the amount necessary to pay principal and interest on the Bond as required pursuant to Section 3.2, the Borrower may make written request to the Servicer for disbursement of amounts in the Operating Reserve Fund for payment of such Operating Expenses and debt service on the Bond. Following receipt of any such request, the Servicer may authorize the disbursement of such sums from the Operating Reserve Fund as it shall have approved from time to time. If moneys are disbursed from the Operating Reserve Fund, the Borrower shall, from time to time, deposit into the Operating Reserve Fund any Project net operating income that it realizes until the amount so deposited is equal to the aggregate amounts so disbursed.

**Section 5.23** [Intentionally Deleted].

**Section 5.24** Covenants Regarding Tax Credits. The Borrower hereby agrees to comply with all of the following covenants (each, a “**Tax Credit Covenant**”):

(a) To observe and perform all obligations imposed on the Borrower in connection with the Tax Credits, including the obligation to operate the residential units of the Project, and to use the Borrower’s best efforts to cause all appropriate parties to operate the same, in accordance with all requirements, statutes, and regulations governing the Tax Credits;

(b) To preserve at all times the allocation and availability of the Tax Credits;

(c) Not to release, forgo, alter, materially amend, or modify its rights to the Tax Credits without the Servicer’s prior written consent, which the Servicer may give or withhold in the Servicer’s reasonable discretion;

(d) Not to execute any residential lease of all or any portion of the Project which does not comply fully with all requirements, statutes, and regulations governing the Tax Credits, without the Servicer’s prior written consent, which the Servicer may give or withhold in the Servicer’s sole and absolute discretion;

(e) To cause to be kept all records, and cause to be made all elections and certifications, pertaining to the number and size of apartment units, occupancy thereof by tenants, income level of tenants, set-asides for low-income tenants, and any other matters now or hereafter required to qualify for and maintain the Tax Credits in connection with the low-income occupancy of the Project;

(f) To comply with the appropriate minimum low-income set-aside requirements under the Code or applicable federal regulations (the “**Federal Laws**”) and all laws and regulations of the State (the “**State Laws**”) applicable to the creation, maintenance and continued availability of the Tax Credits;

(g) To certify compliance with the set-aside requirements and report the dollar amount of qualified basis and maximum applicable percentage, date of placement in service and any other information required for the Tax Credits at such time periods as required by Federal Laws or State Laws for such Tax Credits;

(h) To set aside the appropriate number of units for households with incomes meeting the required standards of the median income of the county in which the Project is located to qualify for the Tax Credits (as determined pursuant to Section 42 of the Code and/or State Laws), adjusted for family size, and to operate and maintain all such units as “low-income units” qualifying for the Tax Credits under Section 42(i)(3) of the Code and/or State Laws;

(i) To exercise good faith in all activities relating to the operation and maintenance of the Project in accordance with the requirement of Federal Laws and State Laws; and

(j) To promptly deliver to the Servicer true and correct copies of all notices or other documents or communications received or given by the Borrower with regard to or relating in any way to the Borrower’s partnership interests and/or the Tax Credits. Immediately upon receipt thereof, the Borrower shall deliver to the Servicer a copy of (i) the fully executed allocation and final reservation of Tax Credits for the Project; (ii) the basis audit (as required by Section 42 of the Code) for the Project (including a certificate of the Borrower’s accountant or attorneys if requested by the Servicer); (iii) the first annual income certification for all tenants of the Project showing that the tenants are qualified for purposes of the Borrower’s obtaining Tax Credits, and (iv) the fully completed Form 8609 (required by the Code) issued for the Project. The Borrower shall deliver promptly to the Servicer such other certificates, income certificates, reports and information as the Servicer may request.

The Borrower understands and acknowledges that the Servicer is purchasing the Bond based, in part, upon the value of the Tax Credits, and the Tax Credits, directly or indirectly, constitute part of Trustee’s security on behalf of the Owner of the Bond, for the obligations of the Borrower in connection with the Loan. The Borrower agrees to indemnify, defend, and hold the Servicer and the Owner harmless for, from, and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations, and costs or expenses, including litigation costs and reasonable attorneys’ fees, arising from or in any way connected with the Borrower’s failure to comply with one or more Tax Credit Covenants, excepting those arising out of, or resulting, solely from the gross negligence or willful misconduct of the Servicer.

#### **Section 5.25 Leasing.**

(a) The Servicer (and all other parties whose approval is required) must approve the Borrower’s standard form of residential lease or rental agreement prior to its use by the Borrower. The Borrower may not materially modify the approved standard form of residential lease without the Servicer’s prior written consent in each instance (which consent shall not be unreasonably withheld), together with the approval of all other parties whose consent is required. Each lease, other than leases on the Borrower’s standard form of residential lease, of any part of the Project is subject to the Servicer’s written approval as to form and substance prior to execution and delivery. Despite the foregoing, the Borrower may enter into residential leases (and amendments) in the ordinary course of business with bona fide third-party tenants without the Servicer’s prior written consent if the Borrower uses the approved standard form of residential lease and:

(i) Within fifteen (15) days after the Servicer's written request therefor, the Servicer receives a copy of the executed lease (accompanied by all financial information and certificates obtained by the Borrower pertaining to the tenant);

(ii) For those units set aside for low-income households in accordance with the Tax Credit Covenants (the "Tax Credit Units"), the Borrower, acting in good faith and exercising due diligence, has determined that the tenant qualifies as a low-income household for purposes of meeting the requirements for obtaining Tax Credits;

(iii) For the Tax Credit Units, the lease meets the standards required by Section 42 of the Code;

(iv) The lease meets the requirements of the Servicer, the Issuer, and the Investor Limited Partner;

(v) The lease reflects an arm's-length transaction and, so long as the Construction Disbursement Agreement is in effect, conforms to the projections of the Pro Forma Schedule attached thereto;

(vi) The lease does not affect more than one (1) residential unit within the Improvements and is for a minimum term of six (6) months and a maximum term of twelve (12) months, unless otherwise agreed in writing by the Servicer; and

(vii) So long as the Construction Disbursement Agreement is in effect, the lease, together with all leases previously executed, does not cause the Loan to become "out of balance" as that term is defined in Section 1.2(a) of the Construction Disbursement Agreement.

(b) The Servicer in the exercise of its sole discretion may consider any executed lease it receives to be unsatisfactory if the lease fails to meet any of the requirements of this Loan Agreement. If this happens, or if the Borrower at any time fails to submit any executed lease (and accompanying information) at the time required by this Section, or if any Event of Default has occurred and is continuing, the Servicer may make written demand on the Borrower to submit all future leases for the Servicer's approval prior to execution. The Borrower must comply with any such demand by the Servicer.

(c) The Servicer's approval of any lease is for the sole purpose of protecting the Servicer's security and preserving the Servicer's rights under the Loan Documents. No approval by the Servicer will result in a waiver of any default of the Borrower. In no event will the Servicer's approval of any lease be a representation of any kind with regard to the lease, its enforceability or the financial capacity of any tenant or guarantor.

(d) The Borrower must perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project Site or any space within the Improvements.

**Section 5.26 Compliance with Anti-Terrorism Regulations.** None of the Related Persons will be included in, owned by, Controlled by, act for or on behalf of, provide assistance, support, sponsorship, or services of any kind to, or otherwise associate with any of the Persons

referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224 or any other OFAC List.

(a) Borrower will comply at all times with the requirements of Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701-06; the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56 (the “**PATRIOT Act**”); the Iraqi Sanctions Act, Pub. L. 101-513, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S.C. Section 287c; the Antiterrorism and Effective Death Penalty Act (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa 9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Governments Sanctions Regulations, 31 C.F.R. Part 596; the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597; the Bank Secrecy Act, Pub. L. 91-508, 84 Stat. 1114, 1118; the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et seq.; the laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957; and any similar laws or regulations currently in force or hereafter enacted (collectively, the “**Anti-Terrorism Regulations**”).

(b) If Borrower becomes aware or receives any notice that any of the Related Persons are named on any of the OFAC Lists (such occurrence, an “**OFAC Violation**”), Borrower will immediately (i) give notice to the Issuer, the Trustee and the Servicer of such OFAC Violation, and (ii) comply with all laws applicable to such OFAC Violation (regardless of whether the party included on any of the OFAC Lists is located within the jurisdiction of the United States of America), including, without limitation, the Anti-Terrorism Regulations, and Borrower hereby authorizes and consents to Issuer’s, Trustee’s and Servicer’s taking any and all steps Issuer, Trustee and Servicer deem necessary, in the sole discretion of each of Issuer, Trustee and Servicer, to comply with all laws applicable to any such OFAC Violation, including, without limitation, the requirements of the Anti-Terrorism Regulations (including the “freezing” and/or “blocking” of assets).

(c) Upon Issuer, Trustee’s or Servicer’s request from time to time during the term of the Loan, Borrower agrees to deliver a certification confirming that the representations and warranties set forth in this Agreement remain true and correct as of the date of such certificate and confirming Borrower’s compliance with this Section. Borrower also agrees to cooperate with each of Issuer, Trustee and Servicer, and to cause each Related Person to cooperate with Issuer, Trustee and Servicer, in providing such additional information and documentation on Borrower’s and such Related Person’s legal or beneficial ownership, policies, procedures and sources of funds as Issuer, Trustee and Servicer deem necessary or prudent to enable each of them to comply with the Anti-Terrorism Regulations as now in existence or hereafter amended. From time to time upon the written request of Issuer, Trustee or Servicer, Borrower shall deliver to the requesting party a schedule of the name, legal domicile, address and jurisdiction of organization, if applicable, for each Related Party and each holder of a legal interest in any Borrower.



## ARTICLE VI

### OPTION AND OBLIGATIONS OF BORROWER TO PREPAY

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

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

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

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

(d) Notwithstanding anything to the contrary contained herein, on and after the Conversion Date, optional prepayment of the Loan and Tax-Exempt Bond shall only be permitted at the times and upon the terms and requirements set forth in the Note.

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

#### **Section 6.3** Amounts Required for Prepayment.

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

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

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

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

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

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

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

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

(a) Failure by the Borrower to pay any amounts required to be paid on the Note or under Section 3.2(a) or (b) hereof when due; or

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

(c) Any failure of any representation or warranty made in this Loan Agreement, the Construction Disbursement Agreement, any other Loan Document, or any Requisition to be true and correct when made or renewed; or

(d) Any failure by the Borrower to observe and perform any covenant or agreement on its part to be observed or performed hereunder or thereunder, other than as referred to in subsection (a) or (b) of this Section 7.1, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the Borrower by the Issuer, the Trustee, Majority Owner or the Servicer; provided, however, that in the event such breach or failure be such that it can be corrected but cannot be corrected within said thirty (30) day period, the same shall not constitute an Event of Default hereunder if corrective action is instituted by the Borrower or on behalf of the Borrower within said thirty (30) day period and is diligently pursued to completion thereafter (unless, in the opinion of Bond Counsel delivered to the Servicer, failure to correct such breach or failure within the cure period herein provided (or such shorter time as shall be established as a limitation on the period of time during which correction may be pursued) will adversely affect the exclusion from gross income of interest on the Tax-Exempt Bond for federal income taxation purposes or violate State law, in which case the extension of cure period herein provided will not be available); or

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

(f) Any dissolution, termination, partial or complete liquidation, merger or consolidation of any Obligor or the General Partner of Borrower, or any sale, transfer or other disposition of the Project or of all or substantially all of the assets of Borrower except as otherwise approved by Issuer and Servicer or permitted pursuant to the terms hereof; or

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

(h) Any change in the legal or beneficial ownership of the Borrower or the General Partner other than as expressly permitted by the terms hereof or by reason of the death of the owner of such interests; or

(i) The General Partner ceases for any reason to act in that capacity unless replaced by a transferee permitted pursuant to Section 5.17(e); or

(j) [Intentionally Deleted];

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

(l) Any Obligor shall file a voluntary petition in bankruptcy under Title 11 of the United States Code, or an order for relief shall be issued against any such Obligor in any involuntary petition in bankruptcy under Title 11 of the United States Code, or any such Obligor

shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief of debtors, or such Obligor shall seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, conservator or liquidator of such Obligor, or of all or any substantial part of its respective property, or such Obligor shall make an assignment for the benefit of creditors, or such Obligor shall give notice to any governmental authority or body of insolvency or pending insolvency or suspension of operation; or

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

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

(o) [Reserved];

(p) Any uninsured final judgment in excess of \$25,000 shall be rendered against the Borrower which is not covered by insurance and shall remain in force, undischarged, unsatisfied and unstayed, for more than thirty (30) days, whether or not consecutive; or

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

(r) The Trustee or any holder of a Tax-Exempt Bond receives a communication from a Governmental Agency to the effect that the exclusion from gross income of interest on the Tax-Exempt Bond will not continue in effect; or

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

(t) Completion shall not have been attained by the Completion Date subject to *force majeure* delays; or

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

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

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

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

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

(ii) take whatever action at law or in equity or under any of the Loan Documents, the General Partner Documents or the Guarantor Documents, as may appear necessary or desirable to collect the payments and other amounts then due and thereafter to become due hereunder or thereunder or under the Note, or to exercise any right or remedy or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement, the Note or any other Loan Document (including, without limitation, foreclosure of the Mortgage), the General Partner Document or any Guarantor Document; and

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

(b) [Intentionally Omitted].

(c) Any amounts collected pursuant to action taken under this Section (other than amounts collected by the Issuer pursuant to the Reserved Rights) shall, after the payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Issuer, the Trustee, Majority Owner or the Servicer and their respective Counsel, be paid into the Revenue Fund (unless otherwise provided in this Loan Agreement) and applied in accordance with the provisions of the

Indenture. No action taken pursuant to this Section 7.2 shall relieve the Borrower from the Borrower's obligations pursuant to Section 3.2 hereof.

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

**Section 7.4** Agreement to Pay Fees and Expenses of Counsel. If an Event of Default shall occur under this Loan Agreement or under any of the other Loan Documents, and the Issuer, the Trustee, Majority Owner and/or the Servicer should employ counsel or incur other expenses for the collection of the indebtedness or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein or therein contained, the Borrower agrees that it will on demand therefor pay to any such party, or, if so directed by any such party, to its counsel, the reasonable actually incurred fees of such Counsel and all other out-of-pocket expenses incurred by or on behalf of the Issuer, the Trustee, Majority Owner and the Servicer.

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

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

**Section 7.7** Cure by Special Limited Partner. The Issuer, the Trustee, Majority Owner and the Servicer hereby agree that cure of any Event of Default made or tendered by either the Investor Limited Partner or the Special Limited Partner shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 7.8** Issuer Exercise of Remedies. Notwithstanding anything to the contrary contained herein, the Issuer may enforce its Reserved Rights under the Loan Documents and

exercise the permitted remedies with respect thereto against the Borrower, provided that the Issuer shall not commence or direct the Trustee to commence any action to declare the outstanding balance of the Bond or the Loan to be due and neither the Issuer nor the Trustee shall take any action in respect of Reserved Rights (i) to foreclose to take similar action under the Mortgage or otherwise in respect of any liens upon or security interests in the Project or other property pledged to secure the Borrower's obligations under the Loan Documents; (ii) to appoint a receiver; (iii) to enforce any similar remedy against the Project or other property pledged to secure the Borrower's obligations under the Loan Documents; or (iv) to enforce any other remedy which would cause any liens or security interests granted under the Loan Documents to be discharged or materially impaired thereby.

## ARTICLE VIII

### MISCELLANEOUS

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

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

(b) No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee or agent of the Issuer in his individual capacity, and neither the directors of Issuer nor any officer thereof executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee or agent of Issuer shall incur any personal liability with respect to any other action taken by him pursuant to this Agreement, the Act or the Law, provided such director, officer, employee or agent acts in good faith. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the Issuer contained in any document executed by Issuer in connection with the Project or the issuance, sale and delivery of the Bond shall give rise to any pecuniary liability of the Issuer or a charge against its general credit or taxing powers, or shall obligate Issuer financially in any way.

(c) The Borrower and Issuer acknowledge that this Agreement, and all Borrower's obligations hereunder, are subject and subordinate to the RAD Agreement and all applicable laws and regulations applicable to HUD's Rental Assistance Demonstration Program ("RAD Program"), including, but not limited to, those set forth in PIH 2012-13 and any additional guidance which HUD may issue related to the RAD Program.

**Section 8.2** Authorized Borrower Representative. Pursuant to written direction provided on the Closing Date, the Borrower has appointed one or more Authorized Representative for the purpose of taking all actions and making all certificates required to be taken and made by the Authorized Representative under the provisions of the Loan Documents. Whenever under the provisions of any Loan Document the approval of the Borrower is required

or any party is required to take some action at the request of the Borrower, such approval or such request shall be made by the Authorized Borrower Representative, unless otherwise specified in this Loan Agreement, and the Issuer, the Trustee, Majority Owner and the Servicer shall be authorized to act on any such approval or request and the Borrower shall have no complaint against any such party as a result of any such action taken in conformity with such approval or request by the Authorized Borrower Representative.

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

**Section 8.4** Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, however, that for purposes of perfecting a lien or security interest in this Loan Agreement by the Trustee, whether under Article 9 of the Uniform Commercial Code of the State or otherwise, only the counterpart delivered to, and received by, the Trustee shall be deemed the original.

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

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

**Section 8.7** Notices. All notices, demands, requests, consents, approvals, certificates or other communications hereunder shall be sufficiently given and shall be deemed given (a) three (3) days after mailing by certified mail, first-class postage prepaid, (b) the Business Day after sending by expedited overnight delivery service, (c) the date of receipt if delivered by personal delivery, (d) if sent by facsimile transmission, the date of transmission, if receipt of such transmission is telephonically confirmed on such day, addressed as follows:



To the Issuer: City of Los Angeles  
c/o Los Angeles Housing and Community Investment Department  
1200 West 7<sup>th</sup> Street, 8<sup>th</sup> Floor  
Los Angeles, CA 90017  
Attention: Supervisor, Affordable Housing Bond Program  
Facsimile: (213) 808-8918

Los Angeles Housing and Community Investment Department  
P.O. Box 532729  
Los Angeles, CA 90053-2729  
Attention: Supervisor, Affordable Housing Bond Program

To the Borrower: Jordan Downs 1A, LP  
c/o Bridge Housing Corporation  
600 California Street, Suite 900  
San Francisco, California 94108  
Attention: Rebecca Hlebasko  
Facsimile: (415) 495-4898

with a copy to: Goldfarb & Lipman LLP  
1300 Clay Street  
Oakland, CA 94612  
Attention: Heather Gould  
Facsimile: (510) 836-1035

with a copy to: Bank of America, N.A.  
Mail Code: CA-G-503-05-09  
5 Park Plaza, 5<sup>th</sup> Floor  
Irvine, CA 92614  
Attention: Joseph Siu  
Facsimile: (884) 553-8698

Bank of America CDC Special Holding Company, Inc.  
One Federal Street  
Mail Code: MA5-503-04-01  
Attention: Sharon Strong  
Facsimile: (617) 346-2724

with a copy to: Housing Authority of the City of Los Angeles  
2600 Wilshire Boulevard  
Los Angeles, CA 90057  
Attention: Chief Operating Officer

To the Majority Owner: Bank of America, N.A.  
Mail Code: CA0-103-04-04  
450 "B" Street, Suite 450  
San Diego, CA 92101  
Attention: Loan Administration Manager

with a copy to: Bank of America, N.A.  
Mail Code: CA9-193-11-03  
333 South Hope Street, 11<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attention: Ms. Charmaine Atherton

with a copy to: JPMorgan Chase Bank, N.A.  
560 Mission Street, Floor 3  
San Francisco, CA 94105  
Attention: Shara Coletta

To Servicer: Banc of America Public Capital Corp.  
Mail Code: CA0-103-04-04  
450 "B" Street, Suite 450  
San Diego, CA 92101  
Attention: Loan Administration Manager  
Facsimile: (619) 515-5973

with a copy to: Bank of America, N.A.  
333 South Hope Street  
Los Angeles, CA 90071-1406  
Attention: Andrea Ursillo

To the Trustee: U.S. Bank National Association  
633 West 5<sup>th</sup> Street, 24<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attention: Global Corporate Trust Services  
Ref: LA MF (Jordan Downs 2016P)  
Facsimile: (213) 615-6199

A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Borrower to the other shall also be given to the Trustee, the Majority Owner and the Servicer. The Issuer, the Borrower, the Majority Owner, the Servicer and the Trustee may, by ten (10) days' prior written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. No notice need be given to any party if such party is no longer a party to the transactions contemplated by this Loan Agreement.

**Section 8.8** Applicable Law. This Loan Agreement shall be governed exclusively by and construed in accordance with the laws of the State.

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

**Section 8.10** Usury; Total Interest. This Loan Agreement is subject to the express condition, and it is agreed, that at no time shall payments hereunder, under the Note or under the other Loan Documents that are or are construed to be payments of interest on the unpaid principal amount of the Loan reflect interest that is borne at a rate in excess of the lesser of (i) 12% per annum or (ii) the maximum permitted by law. The Borrower shall not be obligated or required to pay, nor shall the Issuer be permitted to charge or collect, interest borne at a rate in excess of such maximum rate. If by the terms of this Loan Agreement or the other Loan Documents the Borrower is required to make such payments reflecting interest borne at a rate in excess of such maximum rate, such payments shall be deemed to be reduced immediately and automatically to reflect such maximum rate. It is further agreed that the total of amounts paid hereunder as interest on the Loan which is to pay interest on the Bond, cumulative from the date of the Note, shall not exceed the sum of 5% per month, simple and noncompounded for each month from such date to the date of calculation (calculated on the basis of a 360-day year of twelve 30-day months. Any such excess payment previously made in either case shall be immediately and automatically applied to the unpaid balance of the principal sum of the Loan and not to the payment of interest thereon. This Loan Agreement is also subject to the condition that amounts paid hereunder representing late payment or penalty charges or the like shall only be payable to the extent permitted by law.

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

**Section 8.12** Nonrecourse. Anything contained in any provision of this Loan Agreement, the Mortgage, the Regulatory Agreement, the Tax Certificate or the Note notwithstanding, in the event of any proceeding to foreclose the Mortgage or otherwise to enforce the provisions of the Note, this Loan Agreement, the Mortgage or the Regulatory Agreement after Conversion, neither the Issuer, nor the Trustee or other holder of the Note (collectively, the “**Noteholder**”), nor the Owner of the Bond, nor any beneficiary of the Mortgage shall be entitled to take any action to procure any personal money judgment or any deficiency decree against the Borrower or any partner of the Borrower or its or their heirs, personal representatives, successors and assigns, it being understood and agreed that recourse hereon and under the Mortgage, the Regulatory Agreement and the Note shall, following Conversion, be limited to the assets of the Borrower that are the security from time to time provided with respect to the Note and this Loan Agreement; provided, however, nothing herein

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

**Section 8.13 Limited Partner Rights.** Servicer agrees that it shall not complete a foreclosure sale of the Property or record a deed in lieu of foreclosure with respect to the Property (each, a “**Foreclosure Remedy**”) unless and until Investor Limited Partner has first been given thirty (30) days’ written notice of the Event(s) of Default, giving rise to such right to complete such Foreclosure Remedy, and Investor Limited Partner has failed, within such thirty (30) day period to cure such Event(s) of Default; provided, however, that Issuer, Trustee, Majority Owner and the Servicer shall be entitled during such thirty (30) day period to continue to pursue all of its rights and remedies under the Loan Documents, including, but not limited to, causing the redemption of the Bond and/or the acceleration of the Note (subject to any de-acceleration provisions specifically set forth in the Loan Documents), commencement and pursuit of foreclosure (but not completion of the foreclosure sale), any guaranty (subject to any notice and cure provisions contained therein), and/or any other Loan Document. In the event the Note has been accelerated and Investor Limited Partner cures all Events of Default giving rise to such acceleration within the thirty (30) day cure period described above, such cure shall have the effect of de-accelerating the Note; provided, however, that such de-acceleration shall not waive or limit any of Issuer’s, Trustee’s, Servicer’s or Majority Owner’s rights to accelerate the Note or exercise any other remedies under the Loan Documents as to any future or continuing Events of Default. It is the express intent of the parties hereunder that Issuer, Trustee, Servicer and Majority Owner shall have the right to pursue all rights and remedies except completion of a Foreclosure Remedy without liability to Investor Limited Partner for failure to provide notice to Investor Limited Partner, and that the liability of Trustee, Servicer and Majority Owner hereunder shall be expressly limited to actual damages to Investor Limited Partner directly caused by completion of a Foreclosure Remedy without Investor Limited Partner receiving the notice and opportunity to cure described above. The failure to give any such notice for any reason shall not act to impair or waive any remedy or right of Trustee, Servicer and Majority Owner under this Loan Agreement or any other Loan Document. Unless expressly prohibited by

law, Investor Limited Partner agrees to record a “Request for Notice,” or similar appropriate document requesting notice of any foreclosure sale, in the Official Records of the County in which the Property is located, and in the event Trustee, Servicer and Majority Owner have failed to sooner provide notice to Investor Limited Partner, the receipt of such notice of foreclosure sale shall be deemed to be notice to Investor Limited Partner as contemplated hereunder. Investor Limited Partner shall be given notice at the address set forth below or such other address as Investor Limited Partner may instruct Trustee, Servicer and Majority Owner in writing from time to time. Any such notice given to Investor Limited Partner by any of Issuer, Trustee, Servicer or Majority Owner shall be deemed given by each of them.

Addresses for Notices to Investor Limited Partner (which shall not constitute notice to the Borrower):

Bank of America, N.A.  
Mail Code: CA-G-503-05-09  
5 Park Plaza, 5<sup>th</sup> Floor  
Irvine, CA 92614  
Attention: Joseph Siu  
Facsimile: (804) 553-8698

With a copy to: Bank of America CDC Special Holding Company, Inc.  
One Federal Street  
Mail Code: MA5-503-04-01  
Attention: Sharon Strong  
Facsimile: (617) 346-2724

**Section 8.14 Business Tax Registration Certificate.** Subject to any exemption available to it, both the Borrower and the Trustee 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 Loan Agreement, Borrower and Trustee 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 8.15 Child Support Assignment Orders.** This Loan 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 this Agreement, subjecting Borrower to the remedies provided herein where such failure shall continue for more than ninety (90) days after notice of such failure to Borrower by Issuer. Any subcontract entered into by Borrower relating to this Loan 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 Borrower to the remedies provided herein where such failure shall continue for more than ninety (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 8.16 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 I 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 Loan Agreement and the Project, to the extent allowed hereunder, shall be subject to the provisions of this Section.

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

**Section 8.19 Permanent Period Supplemental Agreement.** The parties hereto acknowledge that upon satisfaction of the "Conversion Conditions" set forth in the Bond Purchase Agreement and JPMorgan's purchase of the Tax-Exempt Bond on the Conversion Date, JPMorgan shall become the Majority Owner and shall be automatically designated as the Servicer pursuant to the terms of the Indenture. Notwithstanding anything to the contrary contained herein, upon the Conversion Date, the Permanent Period Supplemental Agreement shall automatically become effective and shall be deemed to supplement and modify the terms of this Loan Agreement, and the Permanent Period Note Addendum shall automatically become effective and shall be deemed to supplement and modify the terms of the Note related to the Tax-Exempt Bond, each without the need for further action or approval of the parties hereto or thereto. Upon its effectiveness, in the event of any conflict between the terms of this Loan Agreement and the Permanent Period Supplemental Agreement, the terms of the Permanent Period Supplemental Agreement shall govern and control, and in the event of any conflict between the terms of the Note related to the Tax-Exempt Bond and the Permanent Period Note Addendum, the terms of the Permanent Period Note Addendum shall govern and control.

*[Signature pages follow]*

**ISSUER:**

**CITY OF LOS ANGELES**, as Issuer

By Los Angeles Housing and Community  
Investment Department

By \_\_\_\_\_  
Helmi Hisserich  
Authorized Officer

Approved as to form:

CITY OF LOS ANGELES  
MICHAEL N. FEUER, City Attorney

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

[Issuer signature page to *Jordan Downs* Loan Agreement]



**TRUSTEE:**

U.S. BANK NATIONAL ASSOCIATION, a  
national banking association, as Trustee

By \_\_\_\_\_

Name: Julia Hommel

Title: Vice President

[Trustee signature page to *Jordan Downs* Loan Agreement]

**BORROWER:**

JORDAN DOWNS 1A, LP, a California limited partnership

By: JD Housing 1A, LLC, a California limited liability company, its general partner

By: BRIDGE Housing Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: \_\_\_\_\_  
Whitney Weller, Senior Vice President

[Borrower signature page to *Jordan Downs* Loan Agreement]

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL ESTATE**

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

**[TO BE PROVIDED]**

**EXHIBIT B**

**EXHIBIT B  
FORM OF PROMISSORY NOTE**

[\$28,000,000][\$10,000,000]

[\_\_\_\_\_, 2016]

FOR VALUE RECEIVED, JORDAN DOWNS 1A, LP, a California limited partnership (together with its permitted successors and assigns, "Borrower"), having an address of c/o Bridge Housing Corporation, 600 California Street, Suite 900, San Francisco, California 94108, promises to pay to the order of CITY OF LOS ANGELES or its successors or assigns (the "Holder"), at its office at 1200 West Seventh Street, Los Angeles, California 90017 or at such other place as may be designated in writing by the Holder, in legal tender of the United States, the principal sum of [[Twenty-eight Million Dollars] (\$[28,000,000])][[Ten Million Dollars] (\$[10,000,000])] as provided herein or such lesser sum as may be advanced and outstanding under the Indenture, together with interest thereon at the rates, at the times and in the amounts provided below.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Trust Indenture (as the same may be modified, amended or supplemented from time to time, the "Indenture") dated as of even date herewith between City of Los Angeles (the "Issuer") and U.S. Bank National Association (the "Trustee") or the Loan Agreement dated as of even date herewith among the Issuer, the Trustee and Borrower (as the same may be modified, amended or supplemented from time to time, the "Loan Agreement").

[Notwithstanding anything to the contrary contained herein, upon the Conversion Date, that certain [Permanent Period Addendum to Promissory Note] dated as of [\_\_\_\_\_] 1, 2016 (the "Permanent Period Note Addendum"), and attached hereto, shall automatically become effective and shall be deemed to supplement and modify the terms of this Note without the need for further action or approval of the parties hereto. Upon its effectiveness, in the event of any conflict between the terms of this Note and the Permanent Period Note Addendum, the terms of the Permanent Period Note Addendum shall govern and control.]

This Note shall bear interest at the rate from time to time borne by the Bond[, and Additional Interest shall be payable on this Note as provided in Section 3.2 of the Loan Agreement].

Borrower shall pay to the Trustee for deposit into the Revenue Fund, on the first day of each month for the period commencing [\_\_\_\_\_] 1, 2017] (i) an amount equal to the sum of the principal and interest next coming due on the Bond (after taking into account funds available for such purpose, if any, in the Capitalized Interest Account of the Project Fund) to pay the principal of and interest on the Bond due and payable on each Bond Payment Date and amounts required to be deposited into the Replacement Reserve Fund (pursuant to Section 5.22(c) of the Loan Agreement), the Tax and Insurance Fund (pursuant to Section 5.22(h) of the Loan Agreement) and the Operating Reserve Fund (pursuant to Section 5.22(i) of the Loan Agreement) as of such date. Amounts so paid to the Trustee by the

Borrower shall be in immediately available funds or shall be such that on the Bond Payment Date they are available funds.

All payments under this Note shall be applied as provided in the Indenture.

The obligations of Borrower under this Note are secured by a Construction Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing dated as of even date herewith (as the same may be modified, amended or supplemented from time to time, the "Mortgage") made by Borrower to the Holder covering property, with improvements thereon, as more fully described therein (the "Property") and certain other security as more fully set forth in the Loan Agreement.

At no time shall interest be payable on this Note or under the Mortgage or the Loan Agreement at a rate in excess of the maximum permitted by law. Borrower shall not be obligated or required to pay, nor shall the Holder per permitted to charge or collect, interest at a rate in excess of such maximum rate. If, by the terms of this Note or of the Mortgage or Loan Agreement, Borrower is required to pay interest at a rate in excess of such maximum rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such maximum rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Note is subject to all of the terms, conditions, and provisions of the Loan Agreement, including Section 8.12 thereof and the provisions of the Loan Agreement respecting prepayment and the acceleration of maturity and is further subject to all of the terms, conditions and provisions of the Indenture. The outstanding principal hereof is subject to acceleration at the same time or times and under the same terms and conditions, and with the same notice, if any, as provided under the Indenture for the acceleration of payment of the Bond.

If there is an Event of Default under the Loan Documents, then in any such event and subject to the requirements set forth in the Loan Agreement, the Holder may, upon the direction of the Servicer, declare the entire unpaid principal balance of this Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Loan Documents are hereby made part of this Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Note or the Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Note and the Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Borrower shall pay all costs of collection on demand by the Holder, including, without limitation, reasonable attorneys' fees and disbursements actually incurred, which costs may be

added to the indebtedness hereunder, together with interest thereon at the Alternative Rate to the extent allowed by law.

This Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Borrower to pay the entire sum then due, and Borrower's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Borrower which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

[Remainder of page left blank]

Borrower agrees that this Note shall be construed in accordance with and governed by the laws of the State of California.

JORDAN DOWNS 1A, LP, a California limited partnership

By: JD Housing 1A, LLC, a California limited liability company, its general partner

By: BRIDGE Housing Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: \_\_\_\_\_  
Whitney Weller, Senior Vice President

**EXHIBIT C**

**PROJECT APPROVALS TO BE OBTAINED**

[None]



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

## EXHIBIT E

### SCHEDULE OF INITIAL INSURANCE REQUIREMENTS

#### 1. General Requirements

In order to close, the following insurance specifications must be met and approved in writing by the Bank's insurance consultant. Copies of policies together with an original ACORD 28 (Evidence of Property Insurance) and an ACORD 25 (Certificate of Insurance) or an approved equivalent listing all coverage will be accepted for preclosing contingent on complete "true and certified" copies of the policies with all endorsements attached being received within 90 days after closing. Each certificate must correctly identify the property by address and the insured by borrowing entity name.

Policy premiums cannot be financed or paid in installments to an insurance carrier, but must be paid in full as evidenced by a paid receipt presented prior to or at preclosing. All policies and renewals thereof are to be written for not less than one year. An escrow account, as described further in the loan application, will be established to pay the premium at renewal.

All of the liability policies must be written and provide for claims to be paid on an "Occurrence" basis.

Each policy must have a cancellation provision that provides that the carrier will notify Lender, its successors and/or assigns, in writing at least 30 days in advance of any policy reduction or cancellation for any reason except for nonpayment of premium (for which not less than 10 days written notice shall be provided).

The insurer under each policy shall be a domestic primary insurance company duly qualified as such under the laws of the states in which the Property is located and duly authorized, admitted and licensed in such states to transact the applicable insurance business and to write the insurance provided and must have and maintain a rating of AA or higher by Standard & Poor's or A.M. Best rating of A-IX or higher for any Mortgage Loan \$[28,000,000] or above. For any Mortgage Loan below \$[28,000,000], the insurance carrier must have and maintain a rating of "A" or higher by Standard & Poor's and/or an A.M. Best rating of A-VI or higher.

The insurance policies may be part of a blanket policy, provided the insured acknowledges that failure to pay any portion of the premium which is not allocable to the mortgaged property or any other action not relating to the mortgaged property which would otherwise permit the issuer to cancel the coverage would require the mortgaged property to be insured by a separate, single-property policy. The blanket policy must properly identify and fully protect the mortgaged property as if a separate policy were issued for 100% of Replacement Cost (insurable value) at the time of loss, allocate a portion of the premium to the mortgaged property, and otherwise meet all applicable insurance requirements of the Bank.

During the life of the loan, should any condition change or occur which affects the levels of risk anticipated, Borrower will be required to obtain appropriate coverage to mitigate the associated risk.

If any required type of coverage is not available for the mortgaged property, Lender shall have no obligation to close the loan.

2. Mortgagee Clause

All policies must include EXACTLY the following standard, noncontributory, mortgagee clause:

Banc of America Public Capital Corp. Mail Code: CA9-169-03-05  
P.O. Box 515351  
Los Angeles, CA 90051-6651

Lender must be named as a first *mortgagee* with respect to buildings, *Loss Payee* with respect to loss of rents/business interruption, and *Additional Insured* with respect to general liability.

3. Waiver of Subrogation

Not Required.

4. Required Insurance Coverage

Borrower is required to maintain the following policies of insurance during the term of the Loan:

- All Risk or Special Causes of Loss Form Property Insurance. Property insurance must be maintained insuring against loss or damage by fire, lightning, wind and such other perils as are included in a standard “all-risk” or “special causes of loss” form, and against loss or damage by all other risks and hazards covered by a standard property insurance policy, including, without limitation, riot and civil commotion, vandalism, malicious mischief, burglary and theft. Such insurance shall be in an amount equal to the then full replacement cost of the Improvements, Equipment and personal property, without deduction for physical depreciation, no co-insurance is permitted, and maximum acceptable deductible is \$25,000. If the property is “nonconforming” with respect to zoning requirements, Borrower will be required to maintain “demolition” insurance (in an amount equal to 10% of the building value) and “increased cost of construction” insurance (in an amount equal to 25% of the building value). The burden to prove conforming use is the borrower’s.
- Terrorism Insurance. For Loans in excess of \$20 million and if the insurance required the subparagraph immediately above excludes terrorism, terrorism insurance must be maintained, unless at the time of determination: (i) it is not available at commercially reasonable rates, (ii) no affiliates of Borrower have purchased terrorism insurance with respect to another property, (iii) terrorism insurance is not commonly maintained by owners of other similar properties and (iv) it is not required for securitized loans similar to the Loan and secured by property similar to the Property in the commercial mortgage-backed securities market.
- Flood Insurance. If any portion of the Improvements are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards (i.e., Zone A and V) and in which flood insurance is made available under the National

Flood Insurance Program, then flood insurance must be maintained at least equal to the lesser of (A) the full replacement cost, together with business interruption coverage or (B) the maximum limit of coverage available for the Property under the National Flood Insurance Act of 1968, The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994, as each may be amended, or \$250,000 per residential building and \$500,000 per commercial building.

- *Earthquake Insurance*. If a seismic study is required by this Program Summary and such study reveals a 50 year/10% PML of not more than 20% of the replacement cost (as determined by the Bank), earthquake insurance will not be required. If the PML study reveals that a 50 year/10% PML of greater than 20% of the replacement cost, then earthquake insurance must be maintained in an amount equal to the replacement cost with a maximum deductible of 10% replacement cost.
- *Boiler and Machinery Insurance*. If the Property contains HVAC equipment, or there are boilers or other pressure-fired vessels that are required to be regulated by the state in which the property is located, then Broad Form Boiler and Machinery Insurance (without exclusion for explosion and including system breakdown coverage) must be maintained on the Property and Improvements in an amount at least equal to or greater than the repair and full replacement cost of such equipment and insurance against loss of occupancy or use arising from any breakdown of such equipment in such amounts as are generally required by institutional lenders for properties comparable to the Property.
- *Business Interruption/Loss of Rental Income Insurance*. Business Interruption and/or loss of rental income insurance must be maintained in an amount sufficient to provide proceeds that will cover the “actual loss” sustained during the restoration. No co-insurance is permitted. The “actual loss” coverage amount may be capped based on projected gross revenues (less nonrecurring expenses) for a 12-month period. The policy can provide an “Extended Period of Indemnity” endorsement for at least an additional 90 days for loans of \$20 million or more. The perils covered by this insurance shall be the same as those required to be covered on the real property, including flood, terrorism and earthquake, as necessary.
- *Builders Risk Insurance*. Borrower is required to maintain, at all times during which structural construction repairs or alterations are being made with respect to the improvements (A) owner’s contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in Paragraph 1 hereof written in a so-called builder’s risk completed value form (1) on a nonreporting basis, (2) against all risks insured against pursuant to said Paragraph 1 hereof, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions.
- *Commercial General Liability Insurance*. Borrower must maintain Commercial General Liability Insurance on an “occurrence” form including broad form property damage, contractual damages and personal injuries (including death resulting therefrom) and a liquor liability endorsement if Borrower sells liquor on the Property. In addition, excess

and/or umbrella liability insurance must be maintained against all claims typically covered by an umbrella liability policy, including all legal liability imposed upon Borrower and all court costs and attorneys' fees connected with the ownership, operation, and maintenance of the Property and Equipment, including products/completed operations, if applicable. The per occurrence limits, including umbrella liability insurance, if applicable, must be maintained in the minimum amounts as outlined below:

- \$1,000,000 total coverage for 1 to 3 story buildings
- \$5,000,000 total coverage for 4 to 10 story buildings
- \$10,000,000 total coverage for 11 to 20 story buildings
- \$25,000,000 total coverage for buildings with greater than 20 stories

If Borrower has a multilocation policy or loan, the aggregates referred to above must be maintained on a per location basis.

- Wind Insurance. If the All Risk or Special Cause of Loss coverage excludes wind, the Borrower must present evidence of separate wind coverage. Maximum acceptable deductible for this peril is 5% of total insured value.
- Sinkhole and Mine Subsidence Insurance. Sinkhole and mine subsidence insurance must be maintained if, in the opinion of a professional engineer, whose résumé shows evidence of his/her experience in this professional area, there is a foreseeable risk of loss due to this hazard. If necessary, as determined by the engineer, Borrower shall maintain coverage in the full principal amount of the Loan.
- Statutory Workers' Compensation Insurance. If Borrower has employees on site, statutory workers' compensation insurance as required by law and including employer's liability must be maintained in an amount that is at least customary for employers insuring similar risks.
- Hired and Non-Owned Auto Insurance. If Borrower has employees on site, Hired and Non-Owned Auto Insurance must be maintained in an amount equal to \$1 Million combined single limit.
- Employee Dishonesty. If Borrower has employees on site, in an amount not less than three months of gross revenue from the property and with a deductible not greater than \$25,000. This coverage is required only on Cooperative Corporations.
- Other Insurance Coverage. Such other insurance with respect to the Property or on any replacements or substitutions or additions or increased coverage limits as may from time to time be required by the holder of the Loan against other insurable hazards or casualties which at the time are commonly insured against in the case of property similarly situated, including, without limitation, sinkhole, mold, mine subsidence, earthquake and environmental insurance, due regard being given the height and type of buildings, their construction, location, use and occupancy.

**EXHIBIT F**

**FORM OF LEASING REPORT CERTIFICATE**

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

**MOVE-OUT DATABASE**

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

**ATTACHMENT C**  
**HCIDLA Request for Issuance of Bonds for Jordan Downs Phase 1A**

*Trust Indenture for Jordan Downs Phase 1A on next page.*

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**TRUST INDENTURE**

between

**CITY OF LOS ANGELES**

and

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

relating to

[\$28,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P-1

and

[\$10,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Taxable Series 2016P-2

Dated as of [\_\_\_\_\_] 1, 2016



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## TRUST INDENTURE

**THIS TRUST INDENTURE** dated as of [\_\_\_\_\_] 1, 2016 (this “Indenture”) by and between the **CITY OF LOS ANGELES**, a municipal corporation and charter city of the State of California (the “Issuer”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association organized and existing under and by virtue of the laws of the United States of America and being duly qualified to accept and administer the trusts created hereby, as trustee (the “Trustee”).

### WITNESSETH:

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 and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, Jordan Downs 1A, LP, a California limited partnership (the “Borrower”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, construction and equipping of an 114-unit (plus one management unit) multifamily rental housing project in the City of Los Angeles, County of Los Angeles, known as Jordan Downs Phase 1A Apartments (the “Project”); and

WHEREAS, the provision of the Loan (as hereinafter defined), is authorized by the Law and the Act and will accomplish a valid public purpose of the Issuer, and the Issuer has determined that it is in the public interest to issue its Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), Series 2016P-1, in the principal amount of \$[28,000,000] (the “P-1 Bond” or the “Tax-Exempt Bond”) and Taxable 2016P-2, in the principal amount of \$[10,000,000] (the “Taxable Bond” and, together with the P-1 Bond, the “Bond”) for the purpose of providing funding necessary for the acquisition of a leasehold interest, construction and equipping of the Project; and

WHEREAS, pursuant to a Loan Agreement dated as of even date herewith (the “Loan Agreement”) among the Issuer, the Trustee and the Borrower, the Issuer has agreed to issue the Bond and lend the proceeds thereof to the Borrower (the “Loan”) and the Borrower has agreed to (i) apply the proceeds of the Loan to pay a portion of the costs of acquisition of a leasehold interest, construction and equipping of the Project, (ii) make payments sufficient to pay the principal of and interest on the Bond when due (whether at maturity, by redemption, acceleration or otherwise), and (iii) observe the other covenants and agreements and make the other payments set forth therein; and

WHEREAS, the Borrower has delivered to the Trustee, on behalf of the Issuer, its promissory note dated the date of issuance of the P-1 Bond in an original principal amount equal to the aggregate original principal amount of the P-1 Bond (as amended, modified or supplemented from time to time, the “P-1 Note”) and its promissory note dated the date of issuance of the Taxable Bond in an original principal amount equal to the aggregate original principal amount of the Taxable Bond (as amended, modified or supplemented from time to time, the “Taxable Note”, and, collectively with the P-1 Note, the “Note”) evidencing its obligation to repay the Loan and the Issuer has made the Loan to the Borrower, subject to the terms and conditions of the Loan Agreement and this Indenture; and

WHEREAS, to secure its obligations under the Loan Agreement and the Note, the Borrower has executed, among other documents, (i) a Construction Deed of Trust with Assignment of Rents, Security

Agreement and Fixture Filing (as amended, modified or supplemented from time to time, the "Mortgage") in favor of the Issuer as secured party as assigned to the Trustee and (ii)(A) an Assignment of Contracts, Plans and Specifications and an Assignment and Subordination of Management Agreement (collectively, as amended, modified or supplemented from time to time, the "Assignment of Project Documents") and (B) a Security Agreement (Assignment of Partnership Interest and Capital Obligations) (as amended, modified or supplemented from time to time, the "Security Agreement"), each dated as of [\_\_\_\_\_] 1, 2016, for the benefit of the Trustee, as secured party;

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

#### GRANTING CLAUSES

The Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bond by the Owner thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment of the principal of and interest on the Bond according to its tenor and effect, and to secure the performance and observance by the Issuer of all the covenants, agreements and conditions herein and in the Bond contained, does hereby transfer, pledge and assign, without recourse, to the Trustee and its successors and assigns in trust forever, and does hereby grant a security interest unto the Trustee and its successors in trust and its assigns, in and to all and singular the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to wit:

(a) All right, title and interest of the Issuer in and to the Loan Agreement, the Note, the Mortgage and the other Loan Documents (as that term is defined below), and all moneys from time to time paid by the Borrower to the Issuer or the Trustee pursuant to the terms of the Loan Documents and all right, title and interest of the Issuer (including, but not limited to, the right to enforce any of the terms thereof) under and pursuant to and subject to the provisions of the Loan Agreement (but excluding the Reserved Rights as defined in the Loan Agreement); and

(b) All other moneys and securities from time to time held by the Trustee under the terms of this Indenture, excluding amounts required to be rebated to the United States Treasury under Section 148(f) of the Code, whether or not held in the Rebate Fund; and

(c) Any and all property (real, personal or mixed) of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder to the Trustee, which the Trustee is hereby authorized to receive at any and all times and to hold and apply the same subject to the terms of this Indenture.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and its successors and assigns in trust forever;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners of the Bond Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection of this Indenture of one Bond over or from any others, except as herein otherwise expressly provided;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition, that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of such Bond

with interest, according to the provisions set forth in the Bond, or shall provide for the payment or redemption of such Bond by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions of Article X and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then these presents and the estate and rights hereby granted shall cease, terminate and become void, and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment by the Issuer of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record, and if necessary shall grant, reassign and deliver to the Issuer all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force;

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that the Bond issued and secured hereunder is to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant with the Trustee, for the benefit of the respective Owners from time to time of the Bond as follows:

## ARTICLE I

### DEFINITIONS AND CONSTRUCTION

**Section 1.01. Definitions.** The following capitalized terms, as used in this Indenture, shall have the meanings specified below unless the context otherwise shall require. All other capitalized terms which are defined in the Loan Agreement and not defined herein shall have the respective meanings ascribed to them in the Loan Agreement.

“*Accounts*” means the accounts established pursuant to Section 5.01 hereof.

“*Act*” has the meaning set forth for that term in the Recitals above.

“*Additional Interest*” means an amount equal to the excess of (i) the amount of interest an Owner (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) would have received during the period of time commencing on the date that the interest on the Tax-Exempt Bond, becomes subject to federal income taxation to the earlier of the date of the payment of the Tax-Exempt Bond or the date of a Determination of Taxability (excluding from such period any time in which the tax on such interest is uncollectible) at a per annum rate equal to the Taxable Rate, over (ii) the aggregate amount of interest received by an Owner for said period.

“*Affiliates*” or “*Affiliate*” means, if with respect to an entity, (a) any manager, member, officer or director thereof and any Person who or which is, directly or indirectly, the beneficial owner of more than 10% of any class of shares or other equity security or (b) any Person which, directly or indirectly, controls or is controlled by or is under common control with such entity. Control (including the correlative meanings of “controlled by” and “under common control with”) means effective power, directly or indirectly, to direct or cause the direction of the management and policies of such Person. With respect to a partnership or venture, “Affiliate” shall include, without limitation, any (i) general partner, (ii) general partner of a general partner, or (iii) partnership with a common general partner, and if any general partner

is a corporation, any Person which is an “Affiliate” (as defined above) of such corporation. With respect to a limited liability company, “Affiliate” shall include, without limitation, any member.

“*Alternative Rate*” means, prior to the Conversion Date, the lower of (i) [4%] in excess of the rate of interest payable on the respective series of the Bond or (ii) 12% per annum, provided that such rate shall in no event exceed the maximum rate allowed by law, and on and after the Conversion, the Alternative Rate set forth in the Permanent Period Note Addendum.

“*Assignment of Project Documents*” has the meaning set forth for that term in the Recitals above.

“*Authenticating Agent*” means the Trustee, or its designee, acting in such capacity under this Indenture.

“*Authorized Attesting Officer*” means the City Treasurer or any Interim City Treasurer of the Issuer, or such other officer or official of the Issuer who, in accordance with the laws of the State, the bylaws or other governing documents of the Issuer, or practice or custom, regularly attests or certifies official acts and records of the Issuer, and includes any assistant or deputy officer to the principal officer or officers exercising such responsibilities.

“*Authorized Denomination*” means the entire outstanding principal amount of each Series; provided, however, that for purposes of redeeming the Bond (other than as expressly required herein), Authorized Denomination shall mean any integral multiple of \$1.00.

“*Authorized Officer*” means the Mayor, the General Manager, any Interim General Manager, Acting General Manager, or any Assistant General Manager, Acting Assistant General Manager, Interim Assistant General Manager, Executive Officer, Director or Acting Director—Finance and Development Division of the Housing Bureau of the Los Angeles Housing and Community Investment Department, and any other officer or employee of the Issuer designated to perform a specified act, to sign a specified document or to act generally, on behalf of the Issuer by a written certificate furnished to the Trustee, which certificate is signed by the Mayor, the General Manager, any Interim General Manager, Acting General Manager, Assistant General Manager, Acting Assistant General Manager or any Interim Assistant General Manager, Executive Officer, Director or Acting Director—Finance and Development Division of the Housing Bureau of the Los Angeles Housing and Community Investment Department and contains the specimen signature of such other officer or employee of the Issuer.

“*Authorized Representative*” means, (i) with respect to the Issuer, any Authorized Officer, (ii) with respect to the Borrower, any person or persons designated to act on behalf of the Borrower by a certificate filed with the Issuer, the Trustee and the Servicer containing the specimen signatures of such person or persons and signed by an authorized representative of the Borrower and (iii) with respect to the Servicer, any person or persons designated to act on behalf of the Servicer by a certificate filed with the Borrower, the Issuer and the Trustee, containing the specimen signatures of such person or persons and signed on behalf of the Servicer by its President, Vice President or Secretary. Each such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties and exercise all powers of an Authorized Representative.

“*BBA LIBOR Daily Floating Rate*” means a variable rate of interest per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Servicer from time to time) as determined for each Business Day at approximately 11:00 a.m. London time two London Banking Days prior to the date in question, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a one month term, as adjusted from time to time in the Servicer’s sole discretion for

reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available in such time for any reason, then the rate will be determined by such alternate method as reasonably selected by the Servicer. A “London Banking Day” is a day on which banks in London are open for business and dealing in offshore dollars. Interest shall be computed for the actual number of days which have elapsed, on the basis of a 360-day year. If the Servicer reasonably determines that no adequate basis exists for determining the BBA LIBOR Daily Floating Rate or that the BBA LIBOR Daily Floating Rate will not adequately and fairly reflect the cost of funding the Loan, or that any applicable law or regulation or compliance therewith by the Trustee or the Servicer prohibits or restricts or makes impossible the charging of interest based on the BBA LIBOR Daily Floating Rate and the Servicer so notifies the Trustee and the Borrower, then until the Servicer notifies the Trustee and the Borrower that the circumstances giving rise to such suspension no longer exist, interest shall accrue and be payable on the unpaid principal balance of the Bond from the date the Servicer so notifies the Trustee and the Borrower until the Maturity Date (whether by acceleration, declaration, extension or otherwise) at a variable rate of interest per annum equal to the Prime Rate, as adjusted from time to time, plus [\_\_\_\_\_] one-hundredths of one percent ([\_\_\_\_\_]%), not to exceed 12% per annum.

“*Bond*” has the meaning set forth for that term in the Recitals above.

“*Bond Counsel*” means Kutak Rock LLP, or any other attorney or firm of attorneys of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of tax-exempt obligations and who is acceptable to the Issuer and the Servicer.

“*Bond Payment Date*” means each date on which principal or redemption price or interest shall be payable on the Bond according to their respective terms.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement, dated as of [\_\_\_\_\_] 1, 2016, among Borrower, Bank of America, N.A. and JPMorgan, pursuant to which and subject to the terms and conditions therein, JPMorgan has agreed to purchase \$[\_\_\_\_\_] principal amount of the Bond upon Conversion.

“*Bond Registrar*” means the Trustee in its capacity as registrar for the Bond hereunder.

“*Borrower*” has the meaning set forth for that term in the Recitals above.

“*Borrower Cost Certificate*” means the certificate of such name dated the date of issue of the Bond certifying as to the expected use of the proceeds of the Bond.

“*Borrower’s Limited Partners*” means the “Investor Limited Partner” and “Special Limited Partner” as defined in the Loan Agreement.

“*Business Day*” means a day of the year which is not a Saturday or Sunday or any other day on which banks located in the city of New York, New York and banks located in the city in which the Principal Office of the Trustee is located are required or authorized by law to remain closed and on which The New York Stock Exchange is not closed.

“*Calculation Period*” means the period commencing upon the first day of each month and ending on (and including) the last day of such month.

“*Capitalized Interest Account*” means the account of that name established in the Project Fund pursuant to Section 5.01 of this Indenture.



“*Closing Date*” means the date of issuance of the Bond.

“*Code*” means the Internal Revenue Code of 1986, together with all corresponding and applicable final or temporary regulations and revenue rulings issued or promulgated thereunder.

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

“*Completion Agreement*” means that certain Completion Agreement executed by Guarantor and dated as of even date with this Indenture, as amended.

“*Completion Date*” means [\_\_\_\_\_], subject to extension pursuant to the Construction Disbursement Agreement.

“*Condemnation Award*” means the total condemnation proceeds actually paid by the condemnor as a result of the condemnation of all or any part of the property subject to the Mortgage less the actual costs incurred, including attorneys’ fees, in obtaining such award.

“*Construction Disbursement Agreement*” means the Construction Disbursement Agreement dated as of [\_\_\_\_\_] 1, 2016 between the Borrower and the Servicer, as the same may be supplemented, amended or modified.

“*Conversion*” has the meaning set forth in the Bond Purchase Agreement.

“*Conversion Date*” means the date on which the “Conversion Conditions” set forth in the Bond Purchase Agreement have been satisfied and JPMorgan has purchased the Bond.

“*Costs of Issuance*” means “issuance costs” with respect to the Bond within the meaning of Section 147(g) of the Code.

“*Costs of Issuance Account*” means the account of that name established within the Project Fund pursuant to Section 5.01 of this Indenture.

“*Counsel*” means an attorney or firm of attorneys acceptable to the Trustee and the Servicer, and may, but need not, be Bond Counsel, counsel to the Issuer, the Servicer or the Borrower.

“*Determination of Taxability*” means (a) a determination by the Commissioner or any District Director of the Internal Revenue Service, (b) a private ruling or Technical Advice Memorandum issued by the National Office of the Internal Revenue Service, (c) a determination by any court of competent jurisdiction or (d) receipt by the Trustee, at the request of the Servicer, of an opinion of Bond Counsel to the effect that the interest on the Tax-Exempt Bond is includable in gross income for federal income tax purposes of the Owners thereof or any former Owner thereof, other than an Owner who is a “substantial user” (within the meaning of Section 147(a) of the Code) of the Project or a “related person” (as defined in Section 147(a) of the Code), provided that no such Determination of Taxability under clause (a), (b) or (c) shall be deemed to have occurred if (i) the Borrower and the Servicer have been afforded the opportunity to contest such determination and (ii) if the Borrower or the Servicer has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earlier of (A) a final determination from which no appeal may be taken with respect to such determination, or (B) abandonment of such appeal by the Borrower or the Servicer.

“*Environmental Indemnity*” means the Indemnity Agreement as of even date with this Indenture, from the Borrower, the General Partner and the [Guarantor] for the benefit of the Trustee and the Issuer, as the same may be modified, supplemented or amended from time to time.

“*Equity Account*” means the account of that name established within the Project Fund pursuant to Section 5.01 of this Indenture.

“*Event of Default*” means any of those events defined as Events of Default under the Loan Agreement.

“*First Fixed Rate*” shall have the meaning given such term in the Permanent Period Note Addendum.

“*Fixed Rate*” means the First Fixed Rate from the period commencing on the Conversion and continuing until the Reset Date, and the Second Fixed Rate from the period commencing on the Reset Date until the Fixed Rate Period Maturity Date.

“*Fixed Rate Period*” means the period commencing on the Conversion Date and ending on (and including) the Fixed Rate Period Maturity Date.

“*Fixed Rate Period Maturity Date*” shall have the meaning given such term in the Permanent Period Note Addendum.

“*Funds*” means the funds established pursuant to Section 5.01 hereof.

“*Government Obligations*” means direct obligations of, or obligations guaranteed by, the United States of America.

“*Guarantor*” means Bridge Housing Corporation and its respective successors and assigns.

“*Guaranty*” means that certain Payment Guaranty executed by Guarantor and dated as of even date with this Indenture and the Completion Agreement.

“*Indenture*” has the meaning set forth for that term in the Recitals above.

“*Initial Notification of Taxability*” means the receipt by Trustee or the Owner of a communication from the Internal Revenue Service or any court of competent jurisdiction to the effect that the exclusion of interest on the Bond from the gross income of the Owner, for federal income tax purposes, will not continue in effect.

“*Insurance and Condemnation Proceeds Account*” means the account of that name established within the Project Fund pursuant to Section 5.01 of this Indenture.

“*Insurance Proceeds*” means the total proceeds of insurance actually paid or payable by an insurance company in respect of the required insurance on the Project, less the actual costs incurred, including attorneys’ fees, in the collection of such proceeds.

“*Interest Payment Date*” means the first day of each month, commencing with the [second] month following the month in which the Closing Date occurs.

“*Investment Securities*” means any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

(a) Bonds or other obligations of the State or bonds or other obligations, the principal of and interest on which are guaranteed by the full faith and credit of the State;

(b) Bonds or other obligations of the United States or of subsidiary corporations of the United States government which are fully guaranteed by such government;

(c) Obligations of agencies of the United States government issued by the Federal Land Bank, the Federal Home Loan Bank, the Federal Intermediate Credit Bank, and the Central Bank for Cooperatives;

(d) Bonds or other obligations issued by any public housing agency or municipality in the United States, which bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States Government, or project notes issued by any public housing agency, urban renewal agency, or municipality in the United States and fully secured as to payment of both principal and interest by a requisition, loan or payment agreement with the United States Government;

(e) Certificates of deposit of national or state banks which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan associations which have deposits insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, including the certificates of deposit of any bank, savings and loan association or building and loan association acting as depository, custodian or trustee for any such bond proceeds. The portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, if any, shall be secured by deposit, with the Federal Reserve Bank of San Francisco, California, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association, of one or more the following securities in an aggregate principal amount equal at least to the amount of such excess: direct and general obligations of the State or of any county or municipal corporation in the State, obligations of the United States or subsidiary corporations included in paragraph (b) hereof, obligations of the agencies of the United States government included in paragraph (c) hereof, or bonds, obligations, or project notes of public housing agencies, urban renewal agencies or municipalities included in paragraph (d) hereof;

(f) Interest-bearing time deposits, repurchase agreements, reverse repurchase agreements, rate guarantee agreements or other similar banking arrangements with a bank (including the Trustee and its affiliates) or trust company having capital and surplus aggregating at least \$50 million or with any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York having capital aggregating at least \$50 million or with any corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956 and whose unsecured or uncollateralized long-term debt obligations of which are rated in one of the two highest letter rating categories of S&P or Moody’s or whose unsecured and uncollateralized short-term debt obligations are rated in one of the two highest letter rating categories of S&P or Moody’s at the time of purchase, provided that

each such interest-bearing deposit, repurchase agreement, reverse repurchase agreement, guarantee agreement or other similar banking arrangement shall permit the moneys so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys;

(g) Any and all other obligations of investment grade and having a nationally recognized market, including, but not limited to, rate guarantee agreements, guaranteed investment contracts or other similar arrangements offered by any firm, agency, business, governmental unit, bank, insurance company or other entity, provided that each such obligation shall permit moneys so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys;

(h) Shares of a money market mutual fund or other collective investment fund registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, having assets of at least \$100,000,000 and rated in the one of the two highest letter rating categories of S&P or Moody's (including funds for which the Trustee and its affiliates provide investment advisory and other management services); and

(i) Any other investment approved in writing by the Servicer.

*"Investor Limited Partner"* means Bank of America, N.A.

*"Issuer"* has the meaning set forth for that term in the Recitals above.

*"Issuer Documents"* means, collectively, this Indenture, the Loan Agreement, the Regulatory Agreement and the Tax Certificate.

*"JPMorgan"* means JPMorgan Chase Bank, N.A., a national banking association, and its successors and assigns.

*"Law"* means Section 248 of the City Charter of the City and Article 6.3 of Chapter 1 of Division 11 of the Los Angeles Administrative Code, as supplemented and amended to the date of issuance of the Bond.

*"Legal Requirements"* means any legal requirements, including any local, state or federal statute, law, ordinance, code, rule or regulation now or hereafter in effect (including environmental laws) or order, judgment, decree, injunction, permit, license, authorization, certificate, franchise, approval, notice, demand, direction or determination, of any Governmental Authority and all legal requirements imposed upon the Land, or upon the owner(s) of the Land from time to time, pursuant to any applicable covenants, conditions, easements, servitudes and restrictions and any applicable ground lease.

*"Loan"* has the meaning set forth for that term in the Recitals above.

*"Loan Account"* means the account of that name established within the Project Fund pursuant to Section 5.01 of this Indenture.

*"Loan Agreement"* means the Loan Agreement dated as of even date herewith, among the Issuer, the Trustee and the Borrower, as the same may be supplemented, amended or modified, including, without limitation, by the Permanent Period Supplemental Agreement upon the Conversion Date.

“*Loan Documents*” means, collectively, the Loan Agreement, the Note, the Regulatory Agreement, the Construction Disbursement Agreement, the Mortgage, the Assignment of Project Documents, the Security Agreement, the Environmental Indemnity, the Guaranty, the Tax Certificate and, upon delivery thereof, the Servicing Agreement, and upon the Conversion Date, the Permanent Period Supplemental Agreement, together with all other documents or instruments executed by the Borrower which evidence or secure the Borrower’s indebtedness under such documents and all other documents and instruments delivered simultaneously herewith or required under the Loan Documents to be delivered during the term of the Loan.

“*Majority Owner*” means the Person who owns the Bond; initially Bank of America, N.A. and following purchase of the Bond by JPMorgan.

“*Maturity Date*” means, as to the P-1 Bond, [\_\_\_\_\_] 1, 20[\_\_\_\_\_] and as to the Taxable Bond, [\_\_\_\_\_] 1, 20[\_\_\_\_\_].

“*Maximum Rate*” means the lesser of (i) 12% per annum or (ii) the maximum interest rate allowed by law.

“*Moody’s*” means Moody’s Investors Service, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer, with the consent of the Borrower and the Servicer.

“*Mortgage*” has the meaning set forth for that term in the Recitals above.

“*Note*” has the meaning set forth for that term in the Recitals above.

“*Notice Address*” means, with respect to the Issuer, City of Los Angeles Housing and Community Investment Department, 8th Floor, 1200 West Seventh Street, Los Angeles, California 90017, Attention: Supervisor, Affordable Housing Bond Program, with a copy to City of Los Angeles Housing and Community Investment Department, P.O. Box 532729, Los Angeles, California 90053-2729, Attention: Supervisor, Affordable Housing Bond Program; with respect to the Borrower, Jordan Downs 1A, LP, c/o Bridge Housing Corporation, 600 California Street, Suite 900, San Francisco, California 94108, Attention: Rebecca Hlebasko, with copies to Goldfarb & Lipman LLP, 1300 Clay Street, Oakland, California 94612, Attention: Heather Gould, with copies to Housing Authority of the City of Los Angeles, 2600 Wilshire Boulevard, Los Angeles, California 90057, Attention: Chief Operating Officer; with respect to the Trustee, U.S. Bank National Association, 633 West 5<sup>th</sup> Street, 24<sup>th</sup> Floor, Los Angeles, California 90071, Attention: Global Corporate Trust Administration, Ref: LA MF (Jordan Downs 2016P); with respect to the initial Servicer and Owner, Bank of America, N.A., Mail Code CA0-103-04-04, 450 “B” Street, Suite 450, San Diego, California 92101, Attention: Loan Administration Manager, with a copy to Bank of America, N.A. Mail Code: CA9-193-11-03, 333 South Hope Street, 11th Floor, Los Angeles, California 90071, Attention: Charmaine Atherton; if JPMorgan becomes the Owner, JPMorgan Chase Bank, N.A., 560 Mission Street, Floor 3, San Francisco, CA 94105, Attention: Shara Coletta and, with respect to any future Servicer or Owner, such address as may be shown in the records of the Trustee.

“*Operating Reserve Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Outstanding*” means, when used with respect to Bond, as of any date, any Bond theretofore authenticated and delivered under this Indenture except:

- (a) any Bond canceled or delivered to the registrar for cancellation on or before such date;
- (b) specified as not Outstanding in paragraph (b) of Section 4.05 hereof;
- (c) any Bond in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to Article III of this Indenture;
- (d) any Bond deemed to have been paid as provided in Article IX of this Indenture;
- (e) [Reserved]; and
- (f) any undelivered Bond (except for purposes of receiving the purchase price thereof upon surrender in accordance with this Indenture).

“*Owner*” or “*Owners*” means the registered owner of the Bond.

“*Payment Guaranty*” means that certain Payment Guaranty executed by Guarantor and dated as of even date with this Indenture, as amended, supplemented or restated from time to time.

“*Permanent Period Note Addendum*” means that certain Permanent Period Addendum to Promissory Note, dated as of [\_\_\_\_\_] 1, 2016, executed by Borrower and attached to the Note, which Permanent Period Note Addendum shall automatically become effective on the Conversion Date and shall supplement, amend and modify the terms of the Note thereafter.

“*Permanent Period Supplemental Agreement*” means that certain [Supplemental Agreement], dated as of [\_\_\_\_\_] 1, 2016, executed by and between Borrower and JPMorgan, which Permanent Period Supplemental Agreement shall automatically become effective on the Conversion and shall supplement, amend and modify the terms of the Loan Agreement thereafter.

“*Person*” means any natural individual, corporation, partnership, trust, unincorporated association, business or other legal entity, and any government or governmental agency or political subdivision thereof.

“*Prepayment Equalization Payment*” means, prior to the Conversion Date, the greater of (i) 1% of the Outstanding principal balance of the Tax-Exempt Bond; or (ii) the product obtained by multiplying (A) the amount of principal of the Tax-Exempt Bond being redeemed or purchased by (B) the difference between (1) the Fixed Rate on such Tax-Exempt Bond and (2) the yield rate (the “Yield Rate”) on the U.S. Treasury Security due nearest to, but not later than, the Reset Date (the “Specified U.S. Treasury Security”) (or the average yield rate for all U.S. Treasury Securities due nearest to, but not later than, the expiration of the Reset Date if more than one U.S. Treasury Security qualifies as the Specified U.S. Treasury Security), as such yield rate is reported in *The Wall Street Journal* (or, if the publication of such yield rate is not available in *The Wall Street Journal*, as such yield rate is reported in the *Financial Times*, or, if the publication of such yield rate is not available in *The Wall Street Journal* or the *Financial Times*, as such yield rate is reported in the *New York Times*) on the twenty-fifth Business Day preceding (x) the date of the prepayment of such Tax-Exempt Bond or (y) the date the Trustee accelerates such Tax-Exempt Bond, by (C) the Present Value Factor (as defined below). For purposes of the preceding sentence, the “Present Value Factor” is equal to:

$$\frac{1 - (1 + r)^{-n}}{r}$$

where “r” is equal to the Yield Rate and “n” is equal to the number of 365-day years (or 366-day years, if applicable), and any fraction thereof, remaining between the date of redemption and the Reset Date. In the event that the Yield Rate is not available in *The Wall Street Journal*, the *Financial Times* or the *New York Times*, the Servicer may retain a certified public accountant or other valuation expert to provide the Yield Rate. The Servicer shall provide the Trustee with a calculation of the Prepayment Equalization Payment and the Trustee may conclusively rely on such calculation without liability.

On the after the Conversion Date, the Prepayment Equalization Payment shall have the meaning given such term in the Permanent Period Note Addendum.

“*Prime Rate*” means, on any day, the rate of interest per annum then most recently established by Bank of America, N.A. as its “prime rate.” Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by Bank of America, N.A. to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and that Bank of America, N.A. may make various business or other loans at rates of interest having no relationship to such rate. Each time the Prime Rate changes, the per annum rate of interest on the Bond shall change immediately and *contemporaneously* with such change in the Prime Rate. If Bank of America, N.A. ceases to exist or to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in *The Wall Street Journal* (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

“*Principal Office*” means, with respect to any party, the office designated as such in, or as designated by the respective party in writing pursuant to, this Indenture.

“*Project*” has the meaning set forth for that term in the Recitals above.

“*Project Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Qualified Costs of the Project*” means the actual costs incurred to acquire, construct and equip the Project which (a) are incurred not more than 60 days prior to May 20, 2016, being the date on which the Issuer first declared its “official intent” (within the meaning of Treasury Regulations Section 1.150-2) with respect to the Project (other than preliminary expenditures with respect to the Project in an amount not exceeding 20% of the aggregate principal amount of the Bond); (b) are (i) chargeable to the Project’s capital account or would be so chargeable either with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs, within the meaning of Treasury Regulation Section 1.103-8(a)(1), and if charged or chargeable to the Project’s capital account are or would have been deducted only through an allowance for depreciation or (ii) made for the acquisition of land, to the extent allowed in Section 147(c) of the Code; and (c) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code; provided, however, that (1) Costs of Issuance shall not be deemed to be Qualified Costs of the Project; (2) fees, charges or profits payable to the Borrower or a “related person” (within the meaning of Section 147 of the Code) shall not be deemed to be Qualified Costs of the Project; (3) interest during the construction of the Project shall be allocated between Qualified Costs of the Project and other costs and expenses of the Project; (4) interest following the construction of the Project shall not constitute Qualified Costs of the Project; (5) letter of

credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Costs of the Project and other costs and expenses to be paid from the proceeds of the Bond; and (6) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Costs of the Project. As used herein, the term “preliminary expenditures” includes architectural, engineering, surveying, soil testing and similar costs that were incurred prior to commencement of acquisition or construction of the Project, but does not include land acquisition, site preparation or similar costs incident to commencement of construction of the Project.

“*Rebate Analyst*” means any Person, chosen by the Borrower and at the expense of the Borrower, qualified and experienced in the calculation of rebate payments under Section 148 of the Code and compliance with the arbitrage rebate regulations promulgated under the Code, which is engaged for the purpose of determining the amount of required deposits to the Rebate Fund, if any, pursuant to the Tax Certificate.

“*Rebate Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Record Date*” means, with respect to each Bond Payment Date, the close of business on the day preceding such Bond Payment Date, whether or not such day is a Business Day.

“*Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [\_\_\_\_\_] 1, 2016, by and among the Issuer, the Trustee and the Borrower, as the same may be amended, modified or supplemented from time to time.

“*Replacement Reserve Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Required Equity Funds*” means the amounts required to be deposited in the Equity Account of the Project Fund pursuant to Section [1.2] of the Construction Disbursement Agreement and Section 5.9 of the Loan Agreement.

“*Requisition*” means a requisition in the applicable form attached to the Construction Disbursement Agreement, together with all invoices, bills of sale, schedules and other submissions required for the making of an advance from the Loan Account or the Equity Account of the Project Fund.

“*Reset Date*” shall have the meaning given such term in the Permanent Period Note Addendum.

“*Resolution*” means the resolution of the Issuer adopted on [\_\_\_\_\_] 2016 authorizing, among other things, the execution and delivery by the Issuer of the Issuer Documents and the Bond and the performance of its obligations thereunder.

“*Responsible Banking Ordinance*” means Ordinance No. 182138 of the City of Los Angeles amending Chapter 5.1 of the Los Angeles Administrative Code.

“*Revenue Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Second Fixed Rate*” shall have the meaning given such term in the [Permanent Period Note Addendum].



“*Secured Property*” has the meaning ascribed to such term in the Mortgage.

“*Security Agreement*” has the meaning set forth for that term in the Recitals above.

“*Servicer*” means the servicer of the Loan appointed pursuant to Section 7.11 hereof. Prior to the Conversion Date and during any other times as no servicer has been appointed pursuant to Section 7.11 hereof, all references herein and in the Loan Documents to the Servicer shall be deemed to refer to the Majority Owner.

“*Servicing Agreement*” means any servicing agreement entered into among the Bond Owner, the Trustee and the Servicer, as the same may be amended, modified or supplemented from time to time.

“*Sophisticated Investor*” means a “qualified institutional buyer” (as defined in Rule 144A promulgated under the Securities Act of 1933) or an institutional “accredited investor” as defined in Rule 501 of Regulation D of the Securities Act of 1933, as amended, or to a trust or custodial arrangement each of the beneficial owners of which is an institutional accredited investor or a qualified institutional buyer.

“*S&P*” means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*S&P*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer, with the consent of the Borrower and the Servicer.

“*Special Limited Partner*” means [Banc of America CDC Special Holding Company, Inc.], a North Carolina Corporation

“*State*” means the State of California.

“*Supplemental Indenture*” means any indenture or other document hereafter duly authorized and entered into between the Issuer and the Trustee in accordance with Article VIII hereof, amending, modifying or supplementing this Indenture.

“*Taxable Bond*” means the Issuer’s Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Taxable Series 2016P-2.

“*Taxable Rate*” means a rate of interest equal to the lesser of 12% per annum or a variable rate per annum that is [2%] in excess of the Prime Rate in effect from time to time with changes in the Taxable Rate effective concurrently with each announced change in the Prime Rate.

“*Tax and Insurance Fund*” means the fund of that name established pursuant to Section 5.01 of this Indenture.

“*Tax Certificate*” means the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 dated as of the date of issue of the Bond and executed by the Issuer and the Borrower.

“*Tax-Exempt Bond*” means the P-1 Bond.

“*Trustee*” has the meaning set forth for that term in the Recitals above, and includes any successor trustee appointed pursuant to Section 7.08.

“*Trustee Expenses*” means the fees and expenses of the Trustee set forth in Section 7.04 of this Indenture and of any Authenticating Agent.

“*Trustee Fee*” means an annual fee equal to (a) [\_\_\_\_\_] basis points times (b) the Outstanding principal amount of the Bond, with an annual minimum of \$[\_\_\_\_\_] , payable annually in arrears on each [\_\_\_\_\_] 1, commencing [\_\_\_\_\_] 1, 2017.

“*Trust Estate*” means the trust estate pledged by the Issuer and described in the Granting Clauses of this Indenture.

“*Variable Rate*” means (i) with respect to the Tax-Exempt Bond, a variable rate per annum equal to the sum of (a) the BBA LIBOR Daily Floating Rate, plus (b) [\_\_\_\_\_] percent (1.75%), not to exceed the Maximum Rate; and (ii) with respect to the Taxable Bond, a variable rate per annum equal to [\_\_\_\_\_] , not to exceed the Maximum Rate.

“*Variable Rate Period*” means the period commencing on the Closing Date and ending on (and including) the day before the Conversion Date.

**Section 1.02. Construction.** In this Indenture, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Indenture;

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

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

(d) Words importing the redemption of a Bond or the calling of a Bond for redemption do not include or connote the payment of such Bond at its stated maturity or the purchase of such Bond;

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

(f) The terms “receipt,” “received,” “recovery,” “recovered” and any similar terms, when used in this Indenture with respect to moneys or payments due the Issuer, shall be deemed to refer to the passage of physical possession and control of such moneys and payments to the Issuer, the Owners of the Bond or the Trustee on their behalf.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS OF THE ISSUER

**Section 2.01. Representations by the Issuer.** The Issuer represents and warrants to the Trustee and the Owners of the Bond that:

(a) The Issuer is a municipal corporation and charter city of the State, duly organized, validly existing and in good standing under the laws of the State;

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

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

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

(e) The Issuer is not in violation of any Legal Requirements which would affect its existence or its ability to issue, execute, sell or deliver the Bond, to enter into any of the Issuer Documents or to perform any of its obligations thereunder.

**Section 2.02. Covenants of the Issuer.** The Issuer hereby agrees with the Owners from time to time of the Bond that, so long as the Bond remains unpaid:

(a) The Issuer will pay or cause to be paid the principal of and the interest on the Bond as the same become due, but solely to the extent provided in Section 10.02 hereof;

(b) The Issuer will, at the expense of the Borrower, do, execute, acknowledge, when appropriate, and deliver from time to time at the request of the Owner of the Bond or the Trustee such further acts, instruments, financing statements and other documents as are necessary or desirable to better assure, transfer, pledge or assign to the Trustee, and grant a security interest unto the Trustee in and to the Trust Estate and the other properties and revenues herein described and otherwise to carry out the intent and purpose of the Issuer Documents and the Bond;

(c) The Issuer will not use or knowingly permit the use of any proceeds of the Bond or other funds of the Issuer, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions, which would result in the Bond being treated as an obligation not described in Section 142(a)(7) of the Code by reason of such Bond not meeting the requirements of Section 142(d) of the Code;

(d) The Issuer will at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure, and will not knowingly take any action which will adversely affect, the excludability of interest on the Bond from gross income for federal income tax purposes; and

(e) The Issuer will comply with the requirements of the Tax Certificate applicable to the Issuer.

## ARTICLE III

### AUTHORIZATION AND ISSUANCE OF BOND

#### **Section 3.01. Authorization of Bond.**

(a) There is hereby authorized, established and created a Bond comprised of two series of the Issuer to be known and designated as the “City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), Series 2016P-1” in the original aggregate principal amount of \$[28,000,000] and City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), Taxable Series 2016P-2” in an original aggregate principal amount of \$[10,000,000].

(b) No additional Bonds shall be authorized or issued under this Indenture. The Bond shall be issued for the purpose of making the Loan by depositing such amounts in the various accounts of the Project Fund established hereunder.

(c) The Bond is hereby authorized to be issued as a drawdown Bond. The Owner of the Bond shall fund the purchase price of the Bond in installments. The initial installment for the purchase of the Bond shall be in the amount of \$[\_\_\_\_\_], to be advanced by the Owner of such Bond and received by the Trustee on the Closing Date, which purchase price shall be deposited in the Project Fund or elsewhere as provided in Section 5.01(c) hereof for application as provided in Section 5.02 hereof. Provided that the conditions to advance contained in the Construction Disbursement Agreement are either satisfied or waived by the Servicer, the balance of the purchase price of the Bond shall be advanced in subsequent installments by the Owner, with advances of purchase price allocated first to fund the P-1 Bond and then the Taxable Bond. The Servicer shall provide to the Trustee and Owner a Funding Notice (in the form set forth as [Exhibit G] to the Construction Disbursement Agreement, each, a “Funding Notice”) not less than three Business Days prior to the date when such funds are required from the Owner, which such notice shall describe the amount of the purchase price to be funded and the purposes to which the proceeds of the Bond so purchased will be applied. Upon the payment of any portion of the purchase price of the Bond by the Owner in accordance with the terms of this Section 3.01(c), such payment shall be deposited by the Trustee in the Project Fund and thereafter immediately applied in accordance with the corresponding Requisition pursuant to Section 5.02 hereof. The Trustee shall maintain in its books a log which shall reflect from time to time the payment of the purchase price of the Bond by the Owner in accordance with the provisions of this Section 3.01(c). If presented to the Trustee by any Owner, amounts funded by the Owner in accordance with the provisions of this Section 3.01(c) shall be noted on Schedule A attached to the Bond so presented to the Trustee. Notwithstanding any provision in Section 3.06 hereof to the contrary, the Bond shall bear interest as provided in Section 3.06 hereof upon the deposit with Trustee by the Owner of the amount of purchase price of the Bond so paid in accordance with the provisions of this Section 3.01(c). Notwithstanding anything to the contrary herein, no additional portion of the Bond may be funded on or after [December 31, 2019].

**Section 3.02. Conditions Precedent to Authentication and Delivery of Bond.** Prior to the initial authentication and delivery of the Bond, the Trustee shall have received each of the following:

(a) the original executed Note, and executed original counterparts of this Indenture, the other Issuer Documents and the Loan Documents;

- (b) confirmation from the Servicer or its counsel that the conditions to initial purchase of the Bond contained in the Construction Disbursement Agreement have been satisfied or waived by Servicer;
- (c) a certified copy of the Resolution;
- (d) evidence of the payment of the initial installment of the purchase price of the Bond and deposit of the Borrower funds required pursuant to Section 5.01(c) of this Indenture;
- (e) an opinion of Bond Counsel substantially to the effect that the Bond constitutes a legal, valid and binding obligation of the Issuer and that under existing statutes, regulations, rulings and court decisions, the interest on the Tax-Exempt Bond is not includable in gross income of the Owners (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) for federal income tax purposes;
- (f) an original investor letter executed by the initial purchaser of the Bond, in substantially the form set forth in Exhibit B hereto; and
- (g) confirmation of filing pursuant to the Responsible Banking Ordinance.

**Section 3.03. Registered Bond.** The Bond shall be in fully registered, certificated form, without coupons and shall be payable in accordance with the provisions hereof and of the Bond to the Owner thereof as shown on the records maintained by the Trustee.

**Section 3.04. Loss, Theft, Destruction or Mutilation of Bond.** In the event the Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate and deliver a new Bond bearing the same number, if any, as the mutilated, destroyed, lost or stolen Bond and bearing a notation indicating the principal amount outstanding, in exchange for the mutilated Bond, or in substitution for a Bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the Issuer and the Trustee (i) such security or indemnity as may be required by them to save them harmless from all risks, however remote, and (ii) evidence to their satisfaction of the mutilation, destruction, loss or theft of the Bond and of the ownership thereof. Upon the issuance of a Bond upon such exchange or substitution, the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, of the Issuer and the Trustee. In case the Bond shall become mutilated or be destroyed, lost or stolen, the Trustee may, instead of authenticating a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Issuer and the Trustee such security or indemnity as they may require to save them harmless and evidence satisfactory to them of the mutilation, destruction, loss or theft of the Bond and of the ownership thereof.

**Section 3.05. Terms of Bond—General.**

- (a) **Registration; Denomination.** The Bond shall be issuable only as a single fully-registered Bond of each series in the initial principal amount of \$[28,000,000] for the P-1 Bond and \$[10,000,000] for the Taxable Bond. The Bond shall be substantially in the form of Exhibit A hereto, with such amendments and changes as the officer executing the same shall deem appropriate.

(b) ***Date and Maturity.*** The Bond shall be dated the Closing Date. The Bond shall bear interest from the Closing Date until paid in full, payable for the periods, in the amounts, at the rates, and as provided in Section 3.06 hereof. The Bond shall mature on the Maturity Date, unless sooner redeemed or accelerated.

(c) ***Payment.*** The principal of and interest on the Bond shall be payable in lawful money of the United States of America by check or draft of the Trustee mailed by first-class mail to the Owner of the Bond at its address appearing on the records of the Trustee; provided, however, that the payment to the Owner shall, upon written request of the Owner, be transmitted by the Trustee by wire transfer or other means requested in writing by the Owner. Notwithstanding anything in this Indenture to the contrary, all payments of principal and interest with respect to the Bond shall, at the written request of the Owner, be made by wire transfer to the Owner without the requirement of surrender of such Bond under any circumstances.

### **Section 3.06. Interest on the Bond.**

(a) ***General.*** The cumulative principal amount of the Bond for which installment purchase payments have been received by the Trustee shall bear interest at the applicable rate provided below. On each Interest Payment Date, interest accrued for the previous Calculation Period shall be payable. While the Bond bears interest at a Variable Rate or at an Alternative Rate based on a Variable Rate, interest on the Bond shall be computed on the basis of a 360-day year, for the number of days actually elapsed. While the Tax-Exempt Bond bears interest at the Fixed Rate, or at an Alternative Rate based on the Fixed Rate, interest on the Tax-Exempt Bond shall be computed on the basis of a 360-day year of twelve equal months of 30 days each. While the Tax-Exempt Bond bears interest at the Taxable Rate, interest on the Tax-Exempt Bond shall be computed on the basis of a year of 365 or 366 days, as applicable, and actual days elapsed.

(b) ***Variable Rate.*** During the Variable Rate Period, the Bond shall bear interest at the Variable Rate. During the Variable Rate Period, the Servicer shall determine a Variable Rate for the Bond for each day. The Servicer shall give telephonic or facsimile notice (with following written confirmation) on or before the Business Day prior to each Interest Payment Date to the Trustee and the Borrower of the interest payable on such Interest Payment Date. Notwithstanding anything to the contrary herein, the Trustee shall only be required to make any payment due on an Interest Payment Date as soon as reasonably practicable after receipt by the Trustee of such notice from the Servicer. Absent manifest error, the determination of the Variable Rate by the Servicer shall be conclusive and binding upon the Owner, the Issuer, the Borrower and the Trustee.

(c) ***Fixed Rate; Conversion to Fixed Rate.*** During the Fixed Rate Period, the Bond shall bear interest at the Fixed Rate.

(d) ***[Reserved].***

(e) ***Alternative Rate.*** Notwithstanding anything to the contrary set forth herein, following the occurrence of an Event of Default under the Loan Agreement or an Event of Default under this Indenture, the Bond shall bear interest at the Alternative Rate.

(f) ***Taxable Rate.*** If an Initial Notification of Taxability shall occur, the Tax-Exempt Bond shall bear interest from the date of such Initial Notification of Taxability at the Taxable Rate. If such Initial Notification of Taxability is reversed by the Internal Revenue Service or a court of competent jurisdiction and a Determination of Taxability has not occurred,

then the Tax-Exempt Bond shall bear interest from the date of such reversal at the rate applicable to the Tax-Exempt Bond prior to the Initial Notification of Taxability and the Servicer shall refund to the Borrower on or prior to the next succeeding Bond Payment Date the excess interest previously paid. This provision shall survive the discharge of this Indenture.

(g) **Additional Interest.** The Owner of the Tax-Exempt Bond shall also be entitled to Additional Interest, which amount, if any, shall be deposited in the Revenue Fund pursuant to the provisions of Section 3.2(b) of the Loan Agreement.

(h) **Usury.** Notwithstanding any provision of this Indenture to the contrary, in no event shall the interest contracted for, charged or received in connection with the Bond (including any other costs or considerations that constitute interest under the laws of the State which are contracted for, charged or received pursuant to this Indenture) exceed the maximum rate of nonusurious interest allowed under the laws of the State as presently in effect and to the extent of any increase allowable by such laws. To the extent permitted by law, interest contracted for, charged or received on the Bond shall be allocated over the entire term of the Bond, to the end that interest paid on the Bond does not exceed the maximum amount permitted to be paid thereon by law. Excess interest, if any, provided for in this Indenture, or otherwise, shall be canceled automatically as of the date of such acceleration or, if theretofore paid, shall be credited as principal paid on the Bond.

**Section 3.07. Payment of Principal and Interest on the Bond.** Principal and interest on the Bond shall be payable in the following manner: (i) commencing the first day of the first month after the month in which the Closing Date occurs and continuing on each Interest Payment Date thereafter until the Conversion Date, interest on the Outstanding principal balance of the Bond (which amount shall reflect so much of the purchase price as shall have been paid pursuant to Section 3.01(c) hereof) at the applicable interest rate shall be due and payable in arrears; (ii) on the Conversion Date, a single payment of interest due in advance from the Conversion Date to the first day of the month following the Conversion Date at the applicable interest rate set forth in the P-1 Note shall be due and payable; (iii) commencing the first day of the month following the first full month after the Conversion Date and continuing on each Interest Payment Date thereafter until the Fixed Rate Period Maturity Date, payments of principal and interest in arrears on the Tax-Exempt Bond shall be due and payable in accordance with the terms of the P-1 Note; and (iv) the entire unpaid principal balance thereof, the Prepayment Equalization Payment (if any) and all accrued and unpaid interest thereon shall be due and payable in full, on the earlier of the Fixed Rate Period Maturity Date or the Maturity Date of the Tax-Exempt Bond, if not paid earlier.

**Section 3.08. Execution and Authentication of Bond.**

(a) The Bond shall be executed on behalf of the Issuer by the manual or facsimile signature of an Authorized Representative of the Issuer, and its corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of an Authorized Attesting Officer.

(b) In case any officer of the Issuer whose signature or facsimile signature shall appear on the Bond shall cease to be such officer before the Bond so signed and sealed shall have been actually delivered, such Bond may, nevertheless, be delivered as herein provided, and may be issued as if the persons who signed or sealed such Bond had not ceased to hold such offices or be so employed. Any Bond may be signed and sealed on behalf of the Issuer by such persons as, at the actual time of the execution of such Bond, shall be duly authorized or hold the proper office in or employment by the Issuer, although at the date of the Bond such persons may not have been so authorized nor have held such office or employment.

(c) No Bond shall be valid or obligatory for any purpose or shall be entitled to any right or benefit under this Indenture unless there shall be endorsed on such Bond a certificate of authentication in the form set forth in such Bond duly executed by the Trustee, by the manual signature of an authorized signatory thereof, and such certificate of the Trustee upon any Bond executed on behalf of the Issuer shall be conclusive evidence that the Bond so authenticated has been duly issued under this Indenture and that the Owner thereof is entitled to the benefits of this Indenture.

### **Section 3.09. Negotiability, Transfer and Registry of Bond.**

(a) Each Bond issued under this Indenture shall be negotiable, subject to the provisions for registration and transfer contained in this Indenture and in the Bond. So long as this Indenture remains in force, the Trustee, as registrar, shall maintain and keep books for the recordation of the taxpayer identification number of the Owner of the Bond and the registration, transfer and exchange of the Bond. The Bond shall be transferable only upon the books of registration. The Trustee is hereby appointed registrar, to act as agent of the Issuer for the registration and transfer of Bond and the maintenance of the books of registration. The Issuer may appoint a successor registrar upon notice by mail to the Trustee and the Owner of the Bond.

(b) Upon a partial redemption of the Bond, the Issuer shall execute and the Trustee shall authenticate and deliver new certificates representing the unredeemed portion of the Bond to be so tendered or redeemed in part, in exchange for the certificate representing the Bond to be so tendered or redeemed in part. Surrender of the Bond for execution, authentication and delivery of new a certificate shall not be a precondition to the redemption of the Bond pursuant to Section 4.01(e) hereof.

(c) Upon surrender of the Bond at the Principal Office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the Owner or his attorney duly authorized in writing, such Bond may, at the option of the Owner thereof, be exchanged for a new Bond of equal aggregate principal amount and series designation.

(d) The Borrower shall bear all costs in connection with any transfer or exchange of the Bond, including the reasonable fees and expenses of the Issuer, Bond Counsel and the Trustee and of any required indemnity for the Issuer and the Trustee, provided that the costs of any tax or other governmental charge imposed upon such transfer or exchange shall be borne by the Owner of the Bond.

(e) Each Bond shall be transferred upon presentation and surrender thereof at the Principal Office of the Trustee by the Owner thereof or his attorney duly authorized in writing with due endorsement for transfer or accompanied by a written instrument of transfer in form satisfactory to the Trustee. Each Bond surrendered in any exchanges or transfers shall forthwith be canceled. For every such exchange or transfer of the Bond, there shall be made a charge sufficient to pay any tax or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Trustee shall not be obligated to authenticate, exchange or transfer any Bond during a period beginning at the opening of business on any Record Date and ending at the close of business on the next succeeding Interest Payment Date.

(f) The Bond may be transferred, only in whole, to: (i) a new Bondholder only upon receipt by the Bond Registrar, the Issuer and the Trustee of evidence that the Bond is being



transferred to a “qualified institutional buyer” (as defined in Rule 144A promulgated under the Securities Act of 1933) or an institutional “accredited investor” as defined in Rule 501 of Regulation D of the Securities Act of 1933, as amended, or to a trust or custodial arrangement each of the beneficial owners of which is an institutional accredited investor or a qualified institutional buyer; or (ii) JPMorgan. If the transferee is a “Commercial Bank” as defined in the Responsible Banking Ordinance, upon delivery to the Issuer of an executed Responsible Banking Ordinance Certificate in the form of Exhibit D hereto. The Bond Registrar shall not register any transfer or exchange of the Bond unless such Bondholder’s prospective transferee delivers to the Trustee an investor’s letter substantially in the form set forth in Exhibit C to this Indenture and, except in the case of a transfer to JPMorgan, obtains the written consent of the Issuer to such transfer. The Trustee shall be entitled to rely, without any further inquiry, on any investor’s letter delivered to it and shall be fully protected in registering any transfer or exchange of the Bond in reliance on any such investor’s letter which appears on its face to be correct and of which the Trustee has no actual knowledge otherwise. Any such Holder desiring to effect such transfer shall agree to indemnify the Issuer and the Trustee from and against any and all liability, cost or expense (including attorneys’ fees) that may result if the transfer is not so exempt or is not made in accordance with such federal and state laws. Notwithstanding anything to the contrary herein, the Holder shall not transfer or sell any Bond or any interest therein to a party related to or affiliated with the Borrower, the General Partner or the Investor Limited Partner without the prior written consent of the Issuer.

**Section 3.10. Ownership of Bond.** The Issuer, the Trustee and any other Person may treat the registered owner of the Bond as the absolute owner thereof, whether the Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or redemption price of and interest on such Bond and for all other purposes whatsoever, and payment of the principal or redemption price, if any, of and interest on any such Bond shall be made only to, or upon the order of, such registered owner. All such payments to such registered owner shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor any Trustee shall be affected by any notice to the contrary.

**Section 3.11. Payments on Bond Due on Non-Business Days.** In any case where any Bond Payment Date shall be a day other than a Business Day, then payment of the Bond need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the Bond Payment Date, and no interest shall accrue for the period after such date.

**Section 3.12. Registration of Bond in the Book-Entry Only System.**

(a) Notwithstanding any provision herein to the contrary, the provisions of this Section 3.12 and the Representation Letter (as defined below) shall apply with respect to any Bond registered to Cede & Co. or any other nominee of The Depository Trust Company (“DTC”) while the Book-Entry Only System (meaning the system of registration described in paragraph (b) of this Section 3.12) is in effect. The Book-Entry Only System shall become effective 30 days after the Owner of the Bond provides notice in writing to the Trustee, the Borrower and the Issuer, subject to the provisions below concerning termination of the Book-Entry Only System. Until the Owner of the Bond provides such notice and provides evidence satisfactory to the Issuer that the Book-Entry Only System will permit enforcement of the provisions of Section 3.09(f) hereof, the Book-Entry Only System shall not be in effect.

(b) Upon the effectiveness of the Book-Entry Only System, the Issuer shall execute and deliver, and the Trustee shall transfer and exchange Bond certificate for a single authenticated fully registered Bond in substantially the form provided for in Exhibit A hereto.

Any legend required to be on the Bond by DTC may be added by the Trustee. On the date of delivery thereof, the Bond shall be registered in the registry books of the Trustee in the name of Cede & Co., as nominee of DTC as agent for the Issuer in maintaining the Book-Entry Only System. With respect to a Bond registered in the registry books kept by the Trustee in the name of Cede & Co., as nominee of DTC, the Issuer, the Borrower and the Trustee shall have no responsibility or obligation to any Participant (which means securities brokers and dealers, banks, trust companies, clearing corporations and various other entities, some of whom or their representatives own DTC) or to any Beneficial Owner (which means, when used with reference to the Book-Entry Only System, the Person who is considered the Beneficial Owner of the Bond pursuant to the arrangements for book-entry determination of ownership applicable to DTC) with respect to the following: (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bond, (ii) the delivery to or from any Participant, any Beneficial Owner or any other Person, other than DTC, of any notice with respect to the Bond, including any notice of redemption or tender (whether mandatory or optional), or (iii) the payment to any Participant, any Beneficial Owner or any other Person, other than DTC, of any amount with respect to the principal or premium, if any, or interest on the Bond. The Trustee shall pay all principal of and premium, if any, and interest on the Bond only to or upon the order of DTC, and all such payments shall be valid and effective fully to satisfy and discharge the Issuer's obligations with respect to the principal of any premium, if any, and interest on the Bond to the extent of the sum or sums so paid. No Person other than DTC or its agent shall be entitled to receive an authenticated Bond evidencing the obligation of the Issuer to make payments of principal and premium, if any, and interest pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

(c) Upon receipt by the Trustee of written notice from DTC to the effect that DTC is unable or unwilling to discharge its responsibilities, the Issuer shall issue and the Trustee shall transfer and exchange the Bond as requested by DTC in appropriate amounts and in Authorized Denominations, and whenever DTC requests the Issuer and the Trustee to do so, the Trustee and the Issuer will, at the expense of the Borrower, cooperate with DTC in taking appropriate action after reasonable notice (i) to arrange for a substitute bond depository willing and able upon reasonable and customary terms to maintain custody of the Bond or (ii) to make available for transfer and exchange the Bond registered in whatever name or names and in whatever Authorized Denominations as DTC shall designate.

(d) In the event the Beneficial Owners subsequently determine that the Beneficial Owners should be able to obtain Bond certificates, the Beneficial Owners may so notify DTC and the Trustee, whereupon DTC will notify the Participants of the availability through DTC of a Bond certificate. In such event, the Issuer shall issue and the Trustee shall, at the expense of the Beneficial Owners, transfer and exchange a Bond certificate as requested by DTC in appropriate amounts and in an Authorized Denomination. Whenever DTC requests the Trustee to do so, the Trustee will, at the expense of the Beneficial Owners, cooperate with DTC in taking appropriate action after reasonable notice to make available for transfer and exchange the Bond registered in whatever name or names and in whatever Authorized Denominations as DTC shall designate.

(e) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Letter of Representation to be delivered by the Borrower and the Trustee to DTC.

(f) Notwithstanding any provision herein to the contrary, so long as the Bond outstanding is held in the Book-Entry Only System, if less than all of the Bond of a maturity is to be redeemed upon any redemption of the Bond hereunder, the particular portions of the Bond to be redeemed shall be selected by DTC in such manner as DTC may determine.

(g) So long as the Book-Entry Only System is in effect, a Beneficial Owner who elects to have the Bond purchased pursuant to this Indenture shall effect delivery by causing a Participant to transfer the Beneficial Owner's interest in the Bond pursuant to the Book-Entry Only System. The requirement for physical delivery of a Bond in connection with a demand for purchase or a mandatory purchase will be deemed satisfied when the ownership rights in the Bond are transferred in accordance with the Book-Entry Only System.

## ARTICLE IV

### REDEMPTION OF BOND

**Section 4.01. Mandatory Redemption.** The Bond shall be subject to mandatory redemption and shall be redeemed prior to maturity as follows:

(a) in whole or in part on the first Interest Payment Date for which notice can be given in accordance with this Indenture after the Completion Date to the extent of excess funds on deposit on such date in the Loan Account of the Project Fund, determined as provided in Section 5.03 of this Indenture;

(b) in whole or in part on the first Interest Payment Date for which adequate notice can be given in accordance with this Indenture after and to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project are deposited in the Insurance and Condemnation Account of the Project Fund and are not to be used to repair or restore the Project (which unused Condemnation Award or Insurance Proceeds shall be applied to the redemption of the Bond, unless all of the Owner shall have approved a proposed alternative application of such funds and the Trustee and the Servicer shall have received an opinion of Bond Counsel to the effect that such proposed alternative application of such funds will not adversely affect the exclusion from gross income of Owner (other than an Owner who is a "substantial user" of the Project or a "related person" to a "substantial user," as defined in Section 147(a) of the Code);

(c) in whole, as to the Tax-Exempt Bond, on the first Interest Payment Date for which notice can be given to the Bondholder in accordance with this Indenture following receipt by the Trustee of notice from the Servicer demanding such redemption, following a Determination of Taxability;

(d) The P-1 Bond and the Taxable Bond shall be subject to mandatory redemption in whole on the date of the payment of the 2016P-1 Note and the Taxable Note, respectively;

(e) in part in amounts corresponding to the principal payments of the Loan made pursuant to the terms of the Permanent Period Note Addendum;

(f) in whole, following receipt by the Trustee of notice from the Servicer stating that an Event of Default has occurred under the Loan Agreement or the Construction Disbursement Agreement and demanding redemption of the Bond, on any date selected by the Servicer, specified in a notice in writing delivered to the Borrower at least 10 days prior to such date; or

(g) the Bond shall be subject to mandatory redemption in part on the Conversion Date to the extent necessary to prepay the Taxable Bond in whole and to reduce the principal amount Outstanding of the Tax-Exempt Bond to \$[MAX PERM AMOUNT] or less, as determined by Majority Owner, in order to satisfy the Conversion Conditions; provided, however, that such amount may be increased with the written consent of the Majority Owner, the Investor Limited Partner and the Borrower and delivery to the Trustee and the Issuer of an opinion of Bond Counsel to the effect that such increase will not adversely affect the exclusion from gross income of interest on the Tax-Exempt Bond for purposes of federal income taxation.

**Section 4.02. Redemption Price of Bond Redeemed Pursuant to Mandatory Redemption.**

Any portion of the Bond being redeemed before maturity in accordance with Section 4.01 of this Indenture shall be redeemed at a redemption price equal to the principal amount of the Bond being redeemed, together with accrued interest to the date of redemption, plus (a) the Prepayment Equalization Payment (calculated by the Servicer) if redemption is under Section 4.01(a), (b), (c) or (f) and (b) Additional Interest (calculated by the Servicer) if redemption is under Section 4.01(c).

**Section 4.03. Optional Redemption.** The Bond shall be subject to redemption from the proceeds of an optional prepayment of the Loan by the Borrower, (a) in whole or in part on any Interest Payment Date on or prior to the Conversion Date and (b) on and after the Conversion Date and continuing until the Fixed Rate Period Maturity Date, to the extent of permitted prepayments under the terms of the Permanent Period Note Addendum. No Prepayment Equalization Payment shall be due on any optional redemption prior to the Conversion Date which reduces the principal amount Outstanding of the Tax-Exempt Bond to less than \$[MAX PERM AMOUNT].

**Section 4.04. Purchase in Lieu of Redemption.** At the election of the Borrower upon a redemption in whole of the Bond, with the written consent of the Issuer, by written notice to the Trustee and the Servicer given not less than five Business Days in advance of such redemption date, the Bond will be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of the Bond so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and shall be payable on the date of redemption thereof. The Bond, if so purchased in lieu of redemption, shall remain Outstanding and shall be registered to or upon the direction of the Borrower upon satisfaction of the requirements of Section 3.09(f) hereof as applicable. If the Bond is not delivered to the Trustee on the purchase date it shall nonetheless be deemed to have been so purchased and not redeemed on the purchase date and shall cease to accrue interest as to the former owner on the purchase date.

**Section 4.05. Notice of Redemption.**

(a) Notice of redemption shall be given by the Trustee to the Owner and the Borrower by facsimile transmission or other similar electronic means of communication, promptly confirmed in writing, not less than 10 Business Days prior to the date fixed for redemption; provided, however, that no notice of redemption shall be required to be given to the Owner for a redemption pursuant to Section 4.01(e) or (f) of this Indenture. Receipt of such notice of redemption shall not be a condition precedent to such redemption, and failure to so notify any of such registered Owner shall not affect the validity of the proceedings for the redemption of the Bond.

(b) Notice of redemption having been given as provided in subsection (a) of this Section 4.05 and all conditions precedent, if any, specified in such notice having been satisfied, the Bond or portions thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued interest to the

redemption date, and upon presentation and surrender (if required hereunder) thereof at the place specified in such notice, such Bond or portions thereof shall be paid at the redemption price, plus any accrued interest to the redemption date. On and after the redemption date (unless funds for the payment of the redemption price and accrued interest shall not have been provided to the Trustee), (i) such Bond shall cease to bear interest and (ii) such Bond shall no longer be considered as Outstanding under this Indenture.

**Section 4.06. Selection of Bond To Be Redeemed.** Except as otherwise expressly set forth herein, if less than all the Tax-Exempt Bond is to be redeemed, the particular portion of the Tax-Exempt Bond to be redeemed shall be selected by the Trustee.

**Section 4.07. Partial Redemption of Registered Bond.**

(a) In case part but not all of the Bond shall be selected for redemption, upon presentation and surrender at the Principal Office of the Trustee of such Bond by the Owner thereof or his attorney duly authorized in writing, the Issuer shall execute and the Trustee shall authenticate and deliver to or upon the order of such Owner, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond in an amount necessary to equal the unredeemed portion of the principal amount of the Bond; provided, however, that such surrender of the Bond shall not be required for payment of the redemption price pursuant to Sections 4.01(e) and 4.01(f) hereof or pursuant to Section 3.05(c). The Bond so presented and surrendered shall be canceled in accordance with this Indenture.

(b) In the event of a partial redemption of the Bond other than pursuant to (i) Section 4.01(e) or Section 4.01(g) of this Indenture, or (ii) any failure of the entire Bond authorized hereunder to be purchased prior to the Conversion Date through the “drawdown” mechanism described in Section 3.01(c), the mandatory sinking fund schedule set forth on the schedule delivered pursuant to the Note on or after the date of such redemption hereto shall be adjusted to provide for approximately equal monthly payments of principal and interest at the applicable rate hereunder on the Bond remaining Outstanding after taking into account such partial redemption; the Servicer shall provide the Trustee with a new schedule reflecting such adjustment.

(c) Any partial prepayment of the Note shall first be used to pay the Taxable Bond and then the P-1 Bond.

**ARTICLE V**

**ESTABLISHMENT OF CERTAIN FUNDS AND ACCOUNTS,  
APPLICATION THEREOF AND SECURITY THEREFOR**

**Section 5.01. Establishment of Funds and Accounts; Application of Proceeds of the Bond;  
and Other Amounts.**

(a) The following Funds and Accounts are hereby created and established as special trust funds:

(i) the Project Fund, consisting of:

(A) the Loan Account, consisting of:

- (1) a Tax-Exempt Subaccount; and
- (2) a Taxable Subaccount;
- (B) the Costs of Issuance Account;
- (C) the Insurance and Condemnation Proceeds Account;
- (D) the Equity Account;
- (E) the Capitalized Interest Account; and
- (ii) the Replacement Reserve Fund;
- (iii) the Operating Reserve Fund;
- (iv) the Tax and Insurance Fund;
- (v) the Revenue Fund; and
- (vi) the Rebate Fund.

(b) All the Funds and Accounts created by subsection (a) of this Section 5.01 shall be held by the Trustee in trust for application only in accordance with the provisions of this Indenture.

(c) The initial installment for the sale of the Bond (\$[\_\_\_\_\_]), consisting of the Tax-Exempt Bond proceeds of \$[\_\_\_\_\_] [and Taxable Bond proceeds of \$[\_\_\_\_\_]], together with \$[\_\_\_\_\_] provided by the Borrower from non-Bond proceeds, shall be applied as follows:

(i) \$[\_\_\_\_\_], representing a portion of the initial installment of the proceeds of the sale of the Tax-Exempt Bond, shall be deposited in the Tax-Exempt Subaccount of the Loan Account of the Project Fund;

(ii) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the Taxable Bond, shall be deposited in the Taxable Subaccount of the Loan Account of the Project Fund];

(iii) \$[\_\_\_\_\_], representing a portion of the initial installment of proceeds of the sale of the Tax-Exempt Bond, shall be deposited in the Capitalized Interest Account of the Project Fund;

(iv) \$[\_\_\_\_\_], representing a portion of the initial installment of proceeds of the sale of the Taxable Bond, shall be deposited in the Capitalized Interest Account of the Project Fund; and

(v) \$[\_\_\_\_\_], representing funds provided by the Borrower, shall be deposited in the Costs of Issuance Account of the Project Fund.

(d) On the Closing Date, the Borrower shall cause the sum of \$[\_\_\_\_\_] to be delivered to the Trustee for deposit into the Equity Account of the Project Fund, which shall be subject to the lien of this Indenture.

#### **Section 5.02. Project Fund.**

(a) *Deposit of Moneys.* The amounts specified in Section 5.01(c) shall be deposited in the Loan Account, the Capitalized Interest Account and the Costs of Issuance Account. After the Closing Date, the Trustee shall deposit sale proceeds of the bond received from time to time from the Bondholder pursuant to the terms hereof in the Tax-Exempt subaccount or the Taxable Subaccount of the Loan Account of the Project Fund, as applicable. The Loan Account and Capitalized Interest Account of the Project Fund shall be funded from time to time as and when installments of the purchase price of the Bond are paid by the Owner pursuant to Section 3.01(c) hereof. Capitalized interest deposited by the Borrower in connection with any extension of the Completion Date approved by the Servicer shall be deposited in the Capitalized Interest Account of the Project Fund. Any amounts received by the Trustee from the Guarantor, and any amounts received by the Trustee from the Borrower in response to demands by the Servicer for deposits of the Borrower's funds, shall be deposited in the Equity Account of the Project Fund. All Condemnation Awards and Insurance Proceeds shall be deposited in the Insurance and Condemnation Proceeds Account of the Project Fund. Any other funds directed by the Issuer, the Servicer or the Borrower to be deposited in the Project Fund which are not required to be otherwise deposited or disbursed shall be so deposited by the Trustee upon receipt of funds and such direction.

(b) *Use of Moneys.*

(i) *Loan Account and Equity Account.* The Trustee shall make payments from the Loan Account for the purpose of paying the Qualified Costs of the Project. The Trustee shall make payments from the Equity Account to pay (A) all costs of acquisition, construction and equipping of the Project other than Qualified Costs of the Project, (B) to the extent amounts on deposit in the Loan Account are insufficient for such purposes, all Qualified Costs of the Project and (C) on the Conversion Date, to redeem the Bond in part pursuant to Section 4.01(g). Disbursements from the Loan Account shall be made by the Trustee upon receipt of a Requisition, executed by an Authorized Representative of the Borrower and approved by an Authorized Representative of the Servicer and (except for the initial disbursement of \$[\_\_\_\_\_] on the Closing Date) the Issuer. Disbursements from the Equity Account shall be made by the Trustee upon receipt of a Requisition, executed by an Authorized Representative of the Borrower, provided that no Requisition shall be required to use funds held in the Equity Account to redeem the Bond in part pursuant to Section 4.01(g); provided, further, however, that the Servicer may, at its option, by submitting a requisition signed by it but not by the Borrower or the Issuer, cause the Trustee to make disbursements from the Capitalized Interest Account of the Project Fund to pay interest due and payable on the Bond. The Issuer agrees, however, that if the Issuer has not objected in writing to any disbursement within five Business Days of receipt of a request for approval of such disbursement, the Issuer shall be deemed to have approved such disbursement. Furthermore, if the Issuer and the Servicer disagree as to whether a particular disbursement shall be approved or disapproved, they shall meet and confer in good faith, upon the request of either of them in an effort to resolve the matter, which meeting may be by telephonic or electronic means, or may be at a personal meeting. If they fail to agree upon the approval or disapproval of a disbursement

following such good-faith efforts, the Servicer can approve the disbursement and pay it from the proceeds of the Bond.

(ii) *Capitalized Interest.* On the last Business Day immediately preceding each Interest Payment Date up to and including the Completion Date, the Trustee shall transfer funds, if any are available therein, from the Capitalized Interest Account to the Revenue Fund to pay interest on the Bond accruing up to and including the Completion Date without submission of any Requisition. After the Completion Date, amounts held in the Capitalized Interest Account, if any, shall be applied to pay Project Costs, transferred to the Revenue Fund for application to the payment of amounts due in respect to the Bond, or, as further provided in Section 5.03 hereof, released to the Borrower, in each case upon the written direction of the Servicer to the Trustee (a copy of which shall be provided to the Borrower).

(iii) [Reserved.]

(iv) *Costs of Issuance Account.* Amounts in the Costs of Issuance Account shall be disbursed by the Trustee: (A) on the Closing Date to the Trustee in the amount of \$[\_\_\_\_\_] as the Trustee's acceptance fee and to pay Trustee's counsel; and (B) to CDIAC in an amount not exceeding \$[\_\_\_\_\_] following receipt of an invoice therefor. Thereafter amounts held in the Costs of Issuance Account shall be disbursed only to pay costs of issuance of the Bond pursuant to a written requisition signed by the Borrower and the Servicer and approved by the Issuer identifying the amount to be paid and the payee. Amounts remaining in the Costs of Issuance Account (including investment proceeds) after the payment of all costs of issuance, and in any event not later than 60 days following the Closing Date, shall be transferred to the Equity Account of the Project Fund.

(v) *Insurance and Condemnation Proceeds Account.* The Trustee shall make all disbursements from the Insurance and Condemnation Proceeds Account only upon the receipt by the Trustee of the written request of the Borrower accompanied by the written approval of the Servicer and in accordance with the provisions of Section 5.04 hereof.

(vi) *Acceleration.* Upon the occurrence and continuation of an Event of Default hereunder and an acceleration of the Bond pursuant thereto, at the direction of the Servicer, all moneys and investments in the Project Fund shall be transferred to the Revenue Fund and applied to the payment of the Bond.

(c) *Requisitions.* The Trustee may rely fully on the representations of the Borrower contained in any Requisition, and upon the written approval of the Servicer and the Issuer set forth on any Requisition, delivered pursuant to the Loan Agreement, this Indenture and the Construction Disbursement Agreement, and shall not be required to make any investigation or inspection of the Project in connection therewith.

**Section 5.03. Use of Moneys Following Completion and Conversion.** Following written direction of Borrower and Servicer, moneys (including investment proceeds but net of amounts that the Trustee is directed by a written notice from the Servicer and the Borrower to retain to pay Qualified Costs of the Project (a) incurred but not then due and payable or (b) allocated to construction contingency, marketing or operating expenses and other Qualified Project Costs after the Completion Date) held in the Loan Account after the Completion Date shall be transferred to the Revenue Fund for application to the



redemption of the Bond pursuant to Section 4.01(a) of this Indenture. Moneys held in the Equity Account after the Completion Date shall be released to or upon the order of the Borrower when: (i) the Servicer has notified the Trustee that both of the following conditions have been satisfied or waived by the Servicer (A) the Borrower has obtained, and applied to costs of the Project in accordance with the requirements of the Construction Disbursement Agreement, all funds required to be paid by the Borrower pursuant to the Construction Disbursement Agreement and (B) Conversion has occurred; and (ii) the Bond has been prepaid in part as set forth in Section 4.01(g).

#### **Section 5.04. Condemnation Awards and Insurance Proceeds.**

(a) Moneys representing a Condemnation Award or Insurance Proceeds shall be deposited into the Insurance and Condemnation Proceeds Account of the Project Fund, and notice of such deposit thereof shall be given by the Trustee to the Servicer.

(b) To the extent there has been a determination pursuant to the Loan Documents to restore the Project, such Condemnation Award or Insurance Proceeds as have been approved for disbursement by the Servicer shall be disbursed by the Trustee to or for the account of the Borrower, in accordance with terms, conditions and procedures specified by the Servicer, for application by the Borrower for such purposes in accordance with the provisions of the Loan Documents.

(c) In the event there is a determination pursuant to the Loan Documents not to restore the Project, such Condemnation Award or Insurance Proceeds shall be either (i) transferred to the Revenue Fund and applied to the redemption of Bond in accordance with Section 4.01(b) hereof, or (ii) released to the Borrower if the Borrower obtains an opinion of Bond Counsel that such release will not affect the excludability of the interest on the Bond from gross income of the Owner (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) for federal income tax purposes, all in accordance with written direction of the Servicer to the Trustee and subject to the provisions of the Loan Documents.

#### **Section 5.05. Replacement Reserve Fund and Operating Reserve Fund.**

(a) There shall be deposited in the Replacement Reserve Fund all moneys received for such purpose by the Issuer or the Trustee from the Borrower pursuant to Section 5.22(c) of the Loan Agreement or transferred pursuant to Section 5.07 of this Indenture. Moneys in the Replacement Reserve Fund shall be disbursed by the Trustee only upon receipt of a written request therefor executed by the Authorized Representative of the Borrower and approved by the Servicer to be applied to repairs of or replacements in part of the Project, except that upon the occurrence and continuation of an Event of Default hereunder and an acceleration of the Bond pursuant hereto, all moneys and investments in the Replacement Reserve Fund (other than moneys held to pay costs required to be paid but not yet payable) shall be transferred to the Revenue Fund and applied to the payment of the Bond. Upon the payment in full of the Bond and the fees and expenses of the Issuer, the Majority Owner, the Servicer and the Trustee, and upon payment of amounts payable to the United States pursuant to Section 5.08 hereof, any amounts remaining in the Replacement Reserve Fund shall be paid to the Borrower as soon as practicable upon its written request therefor. Notwithstanding the foregoing, in the event that JPMorgan purchases the Bond and becomes the Majority Owner, on and following the Conversion Date, the establishment, maintenance, deposit and disbursement of funds in and from the Replacement Reserve Fund shall be governed by the terms of that certain Replacement

Reserve Agreement, dated as of [\_\_\_\_\_] 1, 2016, by and between the Borrower and JPMorgan, and the other requirements of this Section 5.05(a) shall not be effective.

(b) There shall be deposited in the Operating Reserve Fund all moneys received for such purpose by the Issuer or the Trustee from the Borrower pursuant to Section 5.22(i) of the Loan Agreement or transferred pursuant to Section 5.07 of this Indenture. Moneys in the Operating Reserve Fund shall be disbursed by the Trustee only upon receipt of a written request therefor executed by the Authorized Representative of the Borrower and approved by the Servicer to be applied to costs of operation of the Project or debt service on the Bond, except that upon the occurrence and continuation of an Event of Default hereunder and an acceleration of the Bond pursuant hereto, all moneys and investments in the Operating Reserve Fund (other than moneys held to pay costs required to be paid but not yet payable) shall be transferred to the Revenue Fund and applied to the payment of the Bond. Upon the payment in full of the Bond and the fees and expenses of the Issuer, the Majority Owner, the Servicer and the Trustee and upon payment of amounts payable to the United States pursuant to Section 5.08 hereof, any amounts remaining in the Operating Reserve Fund shall be paid to the Borrower as soon as practicable upon its written request therefor. Notwithstanding the foregoing, in the event that JPMorgan purchases the Bond and becomes the Majority Owner, on and following the Conversion Date, the establishment, maintenance, deposit and disbursement of funds in and from the Operating Reserve Fund shall be governed by the terms of the Permanent Period Supplemental Agreement and the other requirements of this Section 5.05(b) shall not be effective.

**Section 5.06. Tax and Insurance Fund.** There shall be deposited in the Tax and Insurance Fund all moneys received for such purpose by the Issuer or the Trustee from the Borrower pursuant to Section 5.22(h) of the Loan Agreement or transferred pursuant to Section 5.07 of this Indenture. Moneys in the Tax and Insurance Fund shall be applied to payment of real estate taxes and insurance premiums at the direction of the Servicer. Upon the occurrence and continuation of an Event of Default hereunder and an acceleration of the Bond pursuant hereto, all moneys and investment in the Tax and Insurance Fund (other than moneys held to pay costs required to be paid but not yet payable) shall be transferred to the Revenue Fund and applied to the payment of the Bond. Upon the payment in full of the Bond and the fees and expenses of the Issuer, the Majority Owner, the Servicer and the Trustee, and upon payment of amounts payable to the United States pursuant to Section 5.08 hereof, any amounts remaining in the Tax and Insurance Fund shall be paid to the Borrower as soon as practicable upon its written request therefor.

**Section 5.07. Revenue Fund.**

(a) There shall be deposited in the Revenue Fund all amounts transferred from the Project Fund or received from the Borrower pursuant to Section 3.2 of the Loan Agreement with respect to the Loan Documents or from the Guarantor under the Guaranty, including payments of interest and principal and voluntary and involuntary prepayments of the Loan and investment earnings on investments held in the Funds and Accounts created by this Indenture (except as otherwise provided in Section 5.08 and Section 5.10).

(b) Amounts in the Revenue Fund shall be applied to the following items in the following order of priority:

- (i) on each Interest Payment Date, to the payment of interest on the Bond;
- (ii) on each Bond Payment Date, to the payment of the principal of or redemption price (or purchase price in the event of an election of the Borrower under

Section 4.04) of, interest on, and any Prepayment Equalization Payment or Additional Interest due with respect to, the Bond;

(iii) on the first day of each month, to the payment of any required deposit in the Tax and Insurance Fund;

(iv) on the first day of each month, to the payment of any required deposit in the Replacement Reserve Fund, subject to the terms of Section 5.05(a) above;

(v) on the first day of each month, to the payment of any required deposit in the Operating Reserve Fund, subject to the terms of Section 5.05(b) above;

(vi) on the first day of each month, to the payment of the fees of the Trustee, the Majority Owner and the Servicer, if any (including any extension fee due and owing under Section 3.2(c) of the Loan Agreement), due and owing under the Loan Documents and this Indenture and credit to payment of the semi-annual Issuer's Fee, which funds shall be held in a separate account of the Revenue Fund until paid semi-annually to the Issuer pursuant to the Regulatory Agreement; and

(vii) on the first day of each month, to the payment of any other amounts then due and owing under the Loan Documents.

(c) Upon the payment in full of the Bond and the fees and expenses of the Issuer and the Trustee and the payment of amounts payable to the United States pursuant to Section 5.08 hereof, any amounts remaining in the Revenue Fund (except amounts held for future payment to the United States pursuant to Section 5.08 hereof) shall be paid to the Borrower promptly upon its request therefor.

#### **Section 5.08. Rebate Fund.**

(a) The Rebate Fund shall be held and applied as provided in this Section 5.08. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment, to the extent required under the Code and as calculated by the Rebate Analyst, for payment to the United States government. None of the Issuer, the Borrower or the Owners shall have any rights in or claim to such moneys. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provision if it follows the written instructions of the Issuer or of Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate and shall not be required to take any actions thereunder in the absence of written instructions from the Issuer, Bond Counsel or the Rebate Analyst.

(b) The Trustee shall make information regarding the Tax-Exempt Bond and the investments hereunder available to the Borrower promptly upon written request, shall make deposits to and disbursements from the Rebate Fund in accordance with the directions received from the Authorized Representative of the Borrower, shall invest moneys in the Rebate Fund pursuant to said directions and shall deposit income from such investments pursuant to said directions, and shall make payments to the United States of America in accordance with written directions received from the Borrower.

(c) Notwithstanding any provision of this Indenture to the contrary, the Trustee shall not be liable or responsible for any calculation or determination which may be required in

connection with or for the purpose of complying with Section 148 of the Code or any applicable Treasury regulation (the “Arbitrage Rules”), including, without limitation, the calculation of amounts required to be paid to the United States under the provisions of the Arbitrage Rules and the fair market value of any investment made hereunder, it being understood and agreed that the sole obligation of the Trustee with respect to investments of funds hereunder shall be to invest the moneys received by the Trustee pursuant to the written instructions of the Authorized Representative of the Borrower given in accordance with Section 5.09 hereof. The Trustee shall have no responsibility for determining whether or not the investments made pursuant to the direction of the Borrower or any of the instructions received by the Trustee under this Section comply with the requirements of the Arbitrage Rules and shall have no responsibility for monitoring the obligations of the Borrower or the Issuer for compliance with the provisions of the Indenture with respect to the Arbitrage Rules.

(d) Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the rebate amount to the United States and to comply with all other requirements of this Section 5.08 shall survive the defeasance or payment in full of the Tax-Exempt Bond.

(e) Any funds remaining in the Rebate Fund after redemption and payment of all of the Tax-Exempt Bond and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Borrower.

(f) The Trustee shall keep such records of the computations made pursuant to this Section 5.08 as are provided to it and as are required under Section 148(f) of the Code. The Trustee shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Bond and the investments of earnings from those investments as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

(g) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 5.08 need not be made if there shall have been delivered to the Trustee, the Issuer and the Servicer an opinion of Bond Counsel to the effect that such withdrawal and payment are not necessary in order to establish or maintain the exclusion from gross income of Owners (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) of interest on the Tax-Exempt Bond. In the event Bond Counsel so opines, the moneys on deposit in the Rebate Fund shall be applied to such purpose as the Borrower shall direct provided that the Borrower shall deliver to the Issuer, the Trustee and the Servicer an opinion of Bond Counsel to the effect that such application will not adversely affect the exclusion from gross income of Owners (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) of interest on the Tax-Exempt Bond for purposes of federal income taxation.

#### **Section 5.09. Moneys Held in Trust; Investment of Moneys.**

(a) All moneys from time to time received by the Trustee and held in the Funds and Accounts created hereby (other than the Rebate Fund) shall be held in trust as security for the benefit of the Owners of the Bond. All such moneys, including the moneys held in the Rebate Fund, shall be invested as provided in this Indenture.

(b) Any such investments shall be held by or under the control of the Trustee. A sufficient amount of such investments shall be liquidated whenever the cash balance in any Fund or Account is insufficient to pay an approved Requisition when presented or debt service on the Bond when due, provided that proceeds of the Bond may only be used to fund debt service up to the Completion Date. Any moneys held as a part of the Funds shall be invested or reinvested, to the extent permitted by law, in Investment Securities at the request of and as directed in writing by an Authorized Representative of the Borrower. In the absence of such written direction, the Trustee shall hold money in the Funds in Permitted Investments of the type described in clause (h) of the definition of Investment Securities. Any loss resulting from such investment shall be charged to the Fund from which the investment was made, and in the event such loss reduces the amount held in such Fund below the amount required to be deposited in such Fund, the Trustee shall request the Borrower to transfer to the Trustee for deposit into such Fund the amount required to restore amounts in such Fund to the required amount. The Trustee shall not be liable for any loss incurred from the purchase or sale of any investment (except for any such loss resulting from the negligence or willful misconduct of the Trustee or its employees).

(c) The Trustee may purchase from or sell to itself, or through any affiliated company, as principal or agent, Investment Securities herein authorized so long as such purchase or sale is at fair market value.

The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or dealing as principal for its own account.

The Issuer (and the Borrower by its execution of the Loan Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer or the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Issuer and the Borrower will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Issuer and the Borrower periodic cash transaction statements, which include detail for all investment transactions made by the Trustee hereunder. The Trustee, or any of its affiliates, may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder. For investment purposes, the Trustee may, in its discretion, commingle the funds and accounts established hereunder, but shall account for each separately.

**Section 5.10. Investment Earnings.** Earnings on investments held in the Capitalized Interest Account, the Loan Account, the Equity Account and the Insurance and Condemnation Proceeds Account shall be retained in the Capitalized Interest Account, the Loan Account, the Equity Account and the Insurance and Condemnation Proceeds Account, respectively, for application pursuant to Sections 5.02, 5.03 and 5.04 hereof. Earnings on all investments held in the Revenue Fund shall be retained in the Revenue Fund for application pursuant to Section 5.07 hereof. Earnings on investments held in the Replacement Reserve Fund, the Operating Reserve Account, the Tax and Insurance Fund and the Rebate Fund shall be retained therein and applied in the manner prescribed by Sections 5.05, 5.06 and 5.08 hereof, respectively.

**Section 5.11. Covenants Respecting Arbitrage and Rebate.** The Trustee shall keep and make available to the Borrower such records concerning the investment of the gross proceeds of the Bond and the investments of earnings from those investments as may be requested by the Borrower in order to enable the Borrower to fulfill the requirements of Section 148(f) of the Code.

**Section 5.12. Records.** The Trustee shall keep and maintain adequate records pertaining to the Funds and Accounts established hereunder, including all deposits to and disbursements from said funds and accounts. The Trustee shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal and interest paid on the Bond, subject to the inspection of the Borrower, the Issuer, the Trustee and the Owner of the Bond and their representatives at all reasonable times and upon reasonable prior notice.

**Section 5.13. Reports From the Trustee.** The Trustee shall, on or before the tenth day of each month and annually, file with the Servicer, the Borrower and the Issuer a statement setting forth in respect to the preceding calendar month or year:

- (a) the amount withdrawn or transferred by it and the amount deposited within or on account of each Fund and Account held by it under the provisions of this Indenture, including the amount of investment income on each Fund and Account;
- (b) the amount on deposit with it at the end of such month to the credit of each Fund and Account;
- (c) a brief description of all obligations held by it as an investment of moneys in each such Fund and Account;
- (d) the amount applied to the purchase or redemption of the Bond and a description of the portion of the Bond so purchased or redeemed; and
- (e) any other information which the Borrower, the Servicer or the Issuer may reasonably request and to which the Trustee has access in the ordinary course of its operations.

Upon the written request of the Owner of the Bond, the Trustee, at the cost of the Borrower, shall provide a copy of such statement to the Owner of the Bond. All records and files pertaining to the Trust Estate shall be open at all reasonable times to the inspection of the Servicer and its agents and representatives upon reasonable prior notice.

## **ARTICLE VI**

### **DEFAULT PROVISIONS; REMEDIES**

Upon a default by the Issuer of its obligations hereunder, the Trustee shall take such actions, and only such actions, to enforce the provisions of this Indenture and the Loan Documents as are specified in writing by the Servicer. Notwithstanding the foregoing, or anything else to the contrary herein, no default by the Borrower under the Loan Agreement shall constitute an event of default with respect to the Bond (including, without limitation, a failure to make any payment due with respect to the Bond as a consequence of the Borrower's failure to make any payment due under the Loan Agreement). The Issuer's, Trustee's, Owner's and Servicer's remedies with respect to a default under the Loan Documents shall be as set forth under the Loan Documents. Notwithstanding the foregoing, the Servicer may, upon the acceleration of the Borrower's obligations under the Loan Documents, direct the Trustee to accelerate the maturity of the Bond and apply any funds available hereunder for such purpose (after paying the fees and expenses of the Trustee and the Issuer). Any Bond remaining Outstanding shall be deemed paid upon transfer, to or at the direction of the Owner, of the Loan Documents and all security therefor free and clear of the lien of this Indenture.

## ARTICLE VII

### CONCERNING THE TRUSTEE

#### **Section 7.01. Trustee; Appointment and Acceptance of Duties.**

(a) The Issuer hereby appoints U.S. Bank National Association, as trustee hereunder. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing this Indenture.

(b) Unless otherwise provided, the corporate trust offices of the Trustee are designated as the respective offices or agencies of the Trustee for the authentication and delivery of the Bond.

#### **Section 7.02. Responsibilities of Trustee.**

(a) The recitals of fact herein and in the Bond contained (other than the certificate of authentication) shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Bond issued hereunder or as to the security afforded by this Indenture, and the Trustee shall incur no liability in respect thereof. The Trustee shall be under no responsibility or duty with respect to the application of any moneys properly paid to it except as provided herein or as otherwise expressly agreed by the Trustee. Except for a declaration of acceleration under Article VI hereof or the payment of principal and interest on the Bond, the Trustee shall be under no obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect of this Indenture or to advance any of its own moneys, unless indemnified to its reasonable satisfaction. Subject to the provisions of subsection (b) of this Section 7.02, the Trustee shall not be liable in connection with the performance of its duties under this Indenture except for its own negligence or willful misconduct.

(b) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (and has not been cured within any applicable grace period) and subject to the rights of the Servicer with respect to control of remedies following an Event of Default hereunder, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. Any provisions of this Indenture relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 7.02.

(c) The Trustee shall cooperate fully with the Servicer in the enforcement and protection of the rights of the Owner of the Bond to the fullest extent possible under this Indenture, the Loan Documents and applicable law. Toward this end, the Trustee shall take such action as directed by the Servicer, including foreclosure of the Secured Property under the Mortgage, suit for specific performance of the Loan Documents or for damages for nonperformance thereof and assignment of the Loan Documents to the Owner of the Bond for purposes of enforcing the rights of the Owner of the Bond, provided that without the prior written consent of the Issuer, the Servicer shall give the Trustee no direction as to the enforcement of the

Reserved Rights, which shall, except with the prior written consent of the Issuer, be enforceable only by the Issuer.

(d) The Trustee shall not take any discretionary action under the Loan Documents (although approval or disapproval of disbursement of Loan proceeds and investment earnings thereon under the Loan Agreement shall be made in accordance with the terms of Article V hereof) without the written approval of the Servicer and shall, subject to the proviso of paragraph (c) of this section, take such discretionary action permitted or required under the Loan Documents, as may be directed in writing by the Servicer.

(e) The Trustee shall notify the Servicer of any notification received by the Trustee under or pursuant to the Loan Documents promptly after receipt of said notice.

(f) If any Event of Default occurs and is continuing hereunder and if the Trustee has received written notice thereof or is deemed to have notice pursuant to this Indenture, the Trustee shall give to the Owner, the Issuer and the Borrower written notice of such default or Event of Default within 30 days after receipt of such information. For the purpose of this Section 7.02 only, the term “default” means any event which is, or after notice or lapse of time or both would become, a default under Article VI hereof or under any Loan Document.

(g) Promptly upon receipt of notice of the occurrence of a Determination of Taxability, the Trustee shall give immediate telephonic notice, promptly confirmed in writing, to the Borrower, the Issuer, the Owner and former Owners (provided that the Trustee shall not be obligated to maintain records of such former Owners or to retain records relating to such former Owners for more than six years).

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder or under the Loan Agreement except for a default or Event of Default causing the Trustee to be unable to make any payment of principal of or interest on the Bond then due, unless the Trustee shall have received written notice of such Event of Default by the Issuer, the Borrower, the Servicer or by the Owner of the Bond then Outstanding.

(i) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

### **Section 7.03. Evidence on Which Trustee May Act.**

(a) The Trustee, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Indenture, shall examine such instrument to determine whether it conforms to the requirements of this Indenture and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties.



The Trustee may consult with counsel selected by it in respect of any action taken or suffered by the Trustee under this Indenture and the Trustee shall be protected in relying in good faith on the opinion or advice of such counsel.

(b) Except as otherwise expressly provided in this Indenture, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision of this Indenture by the Issuer to any Trustee shall be sufficiently executed if executed in the name of the Issuer by an Authorized Representative of the Issuer.

(c) The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

**Section 7.04. Compensation; No Trustee Liens.** The Borrower shall pay to the Trustee, as provided in the Loan Agreement, from time to time reasonable compensation for all services rendered under this Indenture and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Indenture, provided that the Trustee shall not have a lien therefor on any moneys or Investment Securities at any time held or received by it under this Indenture.

**Section 7.05. Certain Permitted Acts.** The Trustee may become the owner of the Bond with the same rights it would have if it were not the Trustee. To the extent permitted by law, the Trustee may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owner of the Bond or to effect or aid in any reorganization growing out of the enforcement of the Bond or this Indenture.

**Section 7.06. Resignation of Trustee.** The Trustee may resign at any time and be discharged of the duties and obligations created by this Indenture by giving not less than 60 days' written notice to the Issuer, the Borrower and the Owner of the Bond, provided that no resignation shall become effective until the acceptance of appointment by a successor Trustee as provided in Section 7.08 of this Indenture. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 60 days after the giving of such notice of resignation, the retiring Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

**Section 7.07. Removal of Trustee.** The Trustee may be removed at any time by an instrument or concurrent instruments in writing, signed by the Issuer or by the Servicer (subject to the prior written consent of the Issuer, which consent shall not be unreasonably withheld or delayed, if such removal is not for cause) and filed with the Trustee and the Borrower, provided that no removal shall become effective until the acceptance of appointment by a successor Trustee as provided in Section 7.08 of this Indenture.

**Section 7.08. Appointment of Successor Trustee; Temporary Trustee.** In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, the Servicer shall appoint a successor Trustee, subject to the prior written consent of the Issuer (which consent shall not be unreasonably withheld or delayed).

**Section 7.09. Transfer of Rights and Property to Successor Trustee.** Any successor Trustee appointed under this Indenture shall execute, acknowledge and deliver to its predecessor, and also to the Issuer, the Servicer and to any Owner which shall request the same, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named; but the Trustee ceasing to act nevertheless, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as reasonably may be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of the predecessor Trustee in and to any property held by it under this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions set forth in or pursuant to this Indenture. Should any deed, conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged and delivered by the Issuer.

**Section 7.10. Merger or Consolidation of Trustee.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it may be party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, and shall be authorized by law to perform all the duties imposed upon it by this Indenture, shall be the successor to the Trustee without the execution or filing of any paper or the performance of any further act.

**Section 7.11. Servicer.** The Trustee, at the written direction of the Owner, shall appoint (with prompt notice thereof to the Issuer and the Borrower) a mortgage servicer to service the Loan for all or a portion of the term of the Loan. The initial Owner hereby appoints [Banc of America Public Capital Corp.], as the Servicer. In the event that JPMorgan purchases the Bond and becomes the Majority Owner, JPMorgan shall be the Servicer effective as of the Conversion Date without requirement for any further action of the Owner. Any Servicer hereafter appointed shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing the Servicing Agreement. Any Servicer appointed hereunder may be removed at any time, with or without cause, by the Owner, by written notice to the Issuer, the Trustee, the Borrower and the Servicer. At any time when a Servicer has not been appointed or when a Servicer has been removed without appointment of a successor Servicer, pursuant to this Section 7.11, all references in this Indenture and in the Loan Documents to the Servicer shall be deemed to refer to the Owner. The Servicer may, with the prior written consent of the Owner, appoint an agent as subservicer to perform the duties of the Servicer under the Servicing Agreement.

## ARTICLE VIII

### AMENDMENTS AND SUPPLEMENTAL INDENTURES; AMENDMENTS OF ISSUER DOCUMENTS

**Section 8.01. Supplemental Indentures Not Requiring Consent of Owner of the Bond.** The Issuer and the Trustee may, without the consent of, or notice to, the Owner of the Bond (but only with the prior written consent of the Servicer and with notice to the Borrower), enter into one or more Supplemental Indentures for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Indenture;

(b) to grant to or confer any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Owner of the Bond or the Trustee, or to make any change which, in the judgment of the Trustee and the Servicer, is not to the prejudice of the Owner of the Bond;

(c) to subject to the pledge and lien of this Indenture additional revenues, properties and collateral;

(d) to evidence the appointment of a separate Trustee or co-Trustee or the succession of a new Trustee; or

(e) to modify, amend or supplement the provisions of this Indenture or any Supplemental Indenture relating to the holding or investing by the Trustee of moneys hereunder or thereunder in such manner as the Issuer may deem necessary or desirable to maintain the exclusion from gross income of the Owner (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) for purposes of federal income taxation of interest on the Tax-Exempt Bond.

#### **Section 8.02. Supplemental Indentures Requiring Consent of the Owner of the Bond.**

(a) Exclusive of Supplemental Indentures covered by Section 8.01 of this Indenture and subject to the terms and provisions contained in this Section 8.02, and not otherwise, neither the Issuer nor the Trustee shall enter into any amendment, change or modification of this Indenture without the prior written consent of the Owner of the Bond then Outstanding.

(b) If at any time the Issuer and the Trustee shall desire to execute and deliver a Supplemental Indenture for any of the purposes of this Section 8.02, the Trustee shall, upon being provided with reasonably satisfactory arrangements for payment of its fees and expenses, cause notice of the proposed execution of such Supplemental Indenture to be mailed by registered or certified mail to the Owner of the Bond. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Principal Office of the Trustee for inspection by the Owner of the Bond. If within 60 days or such longer period as shall be prescribed by the Issuer following the giving of such notice, the Owner of the Bond Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no subsequent Owner of the Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof. Subject to Section 8.04 hereof, upon the execution of any such Supplemental Indenture as in this Section 8.02 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

**Section 8.03. Reliance on Opinion of Counsel.** The Trustee and the Issuer shall be entitled to rely upon an opinion of Counsel stating that a Supplemental Indenture is authorized or permitted by this Indenture, and prior to the execution and delivery of any Supplemental Indenture, the Trustee, the Issuer and the Servicer shall be furnished with an opinion of Bond Counsel stating that the provisions of such Supplemental Indenture will not cause the interest on the Tax-Exempt Bond to be includable in gross income of the Owner (other than an Owner who is a “substantial user” of the Project or a “related person” to a “substantial user,” as defined in Section 147(a) of the Code) for purposes of federal income taxation.

**Section 8.04. Consents Required.** Anything herein to the contrary notwithstanding, a Supplemental Indenture described in Section 8.02 hereof which adversely affects any rights of the Borrower, the Servicer or the Trustee shall not become effective unless and until the affected party shall have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture together with a copy of the proposed Supplemental Indenture to be mailed as provided in Section 4.05 with respect to the redemption of the Bond to the Borrower and the Servicer at least 10 days before the date of its proposed execution and delivery.

**Section 8.05. Amendments of Loan Documents Not Requiring Consent of the Owner of the Bond.** The Issuer, the Trustee and the Borrower may, without the consent of or notice to the Owner of the Bond (but only with the consent of the Servicer) enter into any amendment, change or modification of any of the Loan Documents as may be required (a) by the provisions of the Loan Agreement or this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission therein, (c) so as to add additional rights and remedies for the benefit of the Owner of the Bond or (d) in connection with any other change therein which, in the judgment of the Trustee and the Servicer, is not to the prejudice of the Trustee or the Owner of the Bond.

**Section 8.06. Amendments of Loan Documents Requiring Consent of the Owner of the Bond.** Except for the amendments, changes or modifications as provided in Section 8.05 hereof, none of the Issuer, the Trustee or the Borrower shall enter into any other amendment, change or modification of the Loan Documents without the mailing of notice and the written approval or consent of the Owner of the Outstanding Bond. If at any time the Issuer, the Trustee or the Borrower shall desire the consent to any such proposed amendment, change or modification, the Trustee shall, upon being satisfactorily indemnified with respect to fees and expenses, cause notice of such proposed amendment, change or modification to be mailed in the same manner as provided herein with respect to redemption of the Bond. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by the Owner of the Bond. If, within 60 days, or such longer period as shall be prescribed by the Trustee as the case may be, following the mailing of such notice, the Owner of the Bond Outstanding at the time of the execution of any such amendment, change or modification shall have consented to and approved the execution thereof as hereto provided, no subsequent Owner of the Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Borrower or the Issuer or the Trustee as the case may be, from executing the same or from taking any action pursuant to the provisions thereof. The Issuer, or the Trustee as the case may be, shall have the right to extend from time to time the period within which such consent and approval may be obtained from the Owner of the Bond. Upon the execution of any such amendment, change or modification as in this Section permitted and provided, the Issuer Documents shall be and be deemed to be modified, changed and amended in accordance therewith.

## ARTICLE IX

### DISCHARGE

**Section 9.01. Discharge of Indenture.** If the Issuer shall pay, or there shall otherwise be paid, to the Owner of the Bond the principal or redemption price, if applicable, and interest due thereon, at the times and in the manner stipulated therein and in this Indenture, and if all Trustee Expenses and all amounts payable to the Issuer for its own account (including fees, expenses and indemnification) shall be paid in full, then the pledge of revenues, other moneys and securities under this Indenture, and all covenants, agreements and other obligations of the Issuer to the Owner of the Bond, shall thereupon

cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request of the Issuer, shall execute and deliver to the Issuer and the Borrower all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver as provided in Article V hereof all moneys or securities held by them pursuant to this Indenture (except as otherwise specified in Section 5.08) after the payment of principal or redemption price, if applicable, of or interest on the Bond. Notwithstanding the foregoing, upon such discharge the provisions of this Indenture relating to the Rebate Fund and Section 5.18(c) of the Loan Agreement shall continue in effect.

**Section 9.02. Discharge by Delivery.** The obligation to pay the principal of and interest on all or any portion of the Bond (the “Bond Obligations”) may be discharged by the delivery of the Bond to the Trustee accompanied by written direction from the Owner thereof to cancel such Bond without payment (except as provided hereafter in this Section 9.02), and upon such delivery such Bond Obligations shall be canceled and deemed paid. In the event only a portion of the Bond Obligations shall be canceled and deemed paid pursuant to the terms of this Section 9.02, those Bond Obligations which are not so canceled and deemed paid shall remain Outstanding for all purposes of this Indenture, provided that if the Outstanding Bond shall be delivered to the Trustee in accordance with the terms of this Section 9.02 and all of the requirements for the discharge of this Indenture (other than the payment of Bond Obligations) shall be paid and satisfied in full, then the Trustee shall discharge and release the lien of this Indenture, assign to the Owner of the Bond all right, title and interest of the Trustee in and to the Note, the Loan Agreement and the other Loan Documents, deliver to the Owner of the Bond all moneys and securities held by the Trustee pursuant to this Indenture (except as otherwise specified in Section 5.08) up to an amount necessary to pay in full all of the principal of and interest on the Bond through such cancellation and any other amounts due under the Loan Documents, and execute and deliver such releases or other instruments requisite to release the lien hereof.

**Section 9.03. Discharge by Deposit.** The obligation to pay the principal of and interest on all or a portion of the Bond may be discharged if the Issuer or the Borrower has deposited or caused to be deposited, as trust funds, with the Trustee cash and/or Government Obligations which do not permit the redemption thereof at the option of the issuer thereof, the principal of and interest on which when due (or upon the redemption thereof at the option of the owner), will, without reinvestment, provide cash which together with the cash, if any, on deposit with the Trustee at the same time, shall be sufficient to pay and discharge the entire indebtedness on the Bond not theretofore canceled by the Trustee or delivered to the Trustee for cancellation by the payment of interest on and principal of the Bond which have become due and payable or which shall become due at its stated maturity or redemption date, as the case may be (the “Defeasance Collateral”), and which is to be discharged under the provisions hereof, and has made arrangements satisfactory to the Trustee for the giving of notice of redemption, if any, by the Trustee in the name, and at the expense, of the Borrower. If the period over which payments will be made from the Defeasance Collateral is greater than 90 days, the Borrower must also deliver to the Trustee a verification report prepared by a certified public accountant, with respect to the sufficiency of the Defeasance Collateral to make such payments. In addition, to discharge the obligation to pay the principal and interest on the Bond pursuant to this Section 9.03, the Issuer or the Borrower must (a) obtain an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that all actions have been taken to cause the defeasance of this Indenture and such actions will not adversely affect the excludability of interest on the Bond for federal income tax purposes under existing law, and (b) provide written notice to the Servicer of such discharge at least 30 days in advance.

## ARTICLE X

### MISCELLANEOUS

#### **Section 10.01. Evidence of Signatures of Bond Owners and Ownership of Bond.**

(a) Any request, consent, revocation of consent or other instrument that this Indenture may require or permit to be signed and executed by the Owner may be in one or more instruments of similar tenor, and shall be signed or executed by such Owner in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner of the Bond or his attorney of such instruments may be proved by a guaranty of the signature thereon by a bank, trust company or national banking association or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guaranty, certificate or affidavit also shall constitute sufficient proof of his authority.

(b) The ownership of the Bond and the amount, numbers and other identification, and date of holding the same, shall be proved by the registry books maintained by the Trustee.

(c) Any request or consent by the Owner of the Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Issuer or any Trustee in accordance therewith.

**Section 10.02. Bond Not an Obligation of the State or Any Political Subdivision. THE BOND AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE ONLY FROM THE SOURCES DESCRIBED IN THIS INDENTURE. NEITHER THE ISSUER, THE STATE NOR ANY OTHER POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF THE BOND OR THE INTEREST THEREON OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE REVENUES, FUNDS AND ASSETS PLEDGED UNDER THIS INDENTURE AND NOT FROM ANY OTHER REVENUES, FUNDS OR OTHER ASSETS OF THE ISSUER. 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 this Indenture or in the Bond, or under any judgment obtained against the 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 this Indenture, 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 owners 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, past, present or future, of the Issuer, 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 this 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 this Indenture and the issuance of the Bond. Anything in this Indenture to the contrary notwithstanding, it is expressly understood by the parties to this Indenture 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 Servicer or the Owner as to the existence of any fact or state of affairs, (b) the Issuer shall not be under any obligation under this Indenture 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 or by the Servicer and (c) none of the provisions of this Indenture 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 this Indenture, 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. 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 this Indenture and the issuance of the Bond. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture 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.

It is recognized that notwithstanding any other provision of this Indenture, neither the Borrower, the Trustee nor the Owner shall look to the Issuer for damages suffered by the Borrower, the Trustee or the Owner as a result of the failure of the Issuer to perform any covenant, undertaking or obligation under this Indenture, the Loan Agreement, the Bond 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. Although this Indenture recognizes that such documents shall not give rise to any pecuniary liability of the Issuer, nothing contained in this Indenture 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 Issuer) in any court or before any governmental body, agency or instrumentality or otherwise against the Issuer or any of its officers or employees to enforce the provisions of any of such documents which the Issuer is obligated to perform and the performance of which the Issuer has not assigned to the Trustee or any other person; provided, however, that as a condition precedent to the Issuer proceeding pursuant to this Section 10.02, the Issuer shall have received satisfactory indemnification.

**Section 10.03. Preservation and Inspection of Documents.** All documents received by any Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times and upon reasonable prior notice to the inspection of the Issuer, any other Trustee, and the Owner of the Bond and its agents and their representatives, any of whom may make copies thereof.

**Section 10.04. Parties Interested Herein.** Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the Issuer, the Trustee, the Servicer, the Borrower and the Owner of the Bond, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation of this Indenture; and all the covenants, stipulations, promises and agreements in this Indenture shall be for the sole and exclusive benefit of the Issuer, the Trustee, the Servicer, the Borrower and the Owner of the Bond.

**Section 10.05. No Recourse on the Bond.** No recourse shall be had for the payment of the principal or redemption price or purchase price of or interest on the Bond or for any claim based thereon or on this Indenture or any other Issuer Document or the Loan Documents against any member, officer, employee or agent of the Issuer, past, present or future or any person executing the Bond.

**Section 10.06. Severability of Invalid Provisions.** If any one or more of the covenants or agreements provided in this Indenture on the part of the Issuer or any Trustee to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and in no way shall affect the validity of the other provisions of this Indenture.

**Section 10.07. Successors.** Whenever in this Indenture the Issuer is named or referred to, it shall be deemed to include any entity that may succeed to the principal functions and powers of the Issuer under the Act and the Law, and all the covenants and agreements contained in this Indenture by or on behalf of the Issuer shall bind and inure to the benefit of said successor whether so expressed or not.

**Section 10.08. Notices, Demands and Requests.** Except as otherwise provided in Section 4.05, all notices, demands and requests to be given or made under this Indenture to or by the Issuer or the Trustee shall be in writing and shall be sufficiently given and shall be deemed given (a) three days after mailing by certified mail, first-class, postage prepaid; (b) the Business Day after sending by expedited overnight delivery service; (c) the date of receipt if delivered by personal delivery; or (d) if sent by facsimile transmission, the date of transmission if receipt of such transmission is telephonically confirmed on such day and addressed to the Notice Address of the respective addressee. Either the Issuer or the Trustee may change the Notice Address listed for it at any time upon written notice of such change sent by United States mail, postage prepaid, to the other party, which charge shall be effective upon receipt.

**Section 10.09. Applicable Law.** This Indenture shall be governed exclusively by the applicable laws of the State.

**Section 10.10. Table of Contents and Section Headings Not Controlling.** The Table of Contents and the headings of the several Articles and Sections of this Indenture have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Indenture.

**Section 10.11. Effective Date.** This Indenture shall take effect immediately upon the execution and delivery by all of the parties hereto.

**Section 10.12. Nondiscrimination and Affirmative Action.** The Trustee 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. Trustee 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 Trustee 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 C.F.R. Part 60). The Trustee 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 Trustee 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



Trustee 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 City. Any subcontract entered into by the Trustee relating to this Indenture, 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 Indenture. 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 10.13. Business Tax Registration Certificate.** Subject to any exemption available to it, the Trustee represents that it will obtain and hold the Business Tax Registration Certificate(s) required by the Issuer's Business Tax Ordinance (Article 1, Chapter 2, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Indenture, the Trustee shall maintain, or obtain as necessary, all such Business Tax Registration Certificates required of it, subject to any exemption available to it, under said Ordinance and shall not allow any such Business Tax Registration Certificate to be revoked or suspended.

**Section 10.14. Child Support Assignment Orders.** This Indenture is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, the Trustee certifies that: (a) it will fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (b) the principal owner(s) of the Trustee are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (c) it will 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) it will maintain such compliance throughout the term of this Indenture. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of the Trustee 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 the Trustee to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Trustee under the terms of this Indenture, subjecting the Trustee to removal hereunder where such failure shall continue for more than 90 days after notice of such failure to the Trustee by the City. Any subcontract entered into by the Trustee relating to this Indenture, 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 the Trustee to obtain compliance of its subcontractors shall constitute a default by the Trustee under the terms of this Indenture, subjecting the Trustee to removal hereunder where such failure shall continue for more than 90 days after notice of such failure to the Trustee by the City. The Trustee shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The Trustee 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 the Public Contract Code 7110.

**Section 10.15. Americans with Disabilities Act.** The Trustee shall be in full compliance with all federal and state laws, including those of 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 (the "ADA"). Under the ADA, the Trustee shall provide for reasonable accommodations to allow qualified individuals access to and participation in their programs,

services and activities in accordance with the ADA. In addition, the Trustee shall not discriminate against individuals with disabilities or against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Trustee, relating to this Indenture, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be executed and attested in its name and on its behalf by its duly authorized officers, and the Trustee has caused this Indenture to be executed in its name by its duly authorized officer, all as of the date set forth above.

**CITY OF LOS ANGELES**, as Issuer

By Los Angeles Housing and Community  
Investment Department

By \_\_\_\_\_  
Helmi Hisserich  
Authorized Officer

Approved as to form:

**CITY OF LOS ANGELES**  
MICHAEL N. FEUER, City Attorney

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

[Issuer Signature Page to *Jordan Downs* Trust Indenture]

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

By: \_\_\_\_\_  
Name: Julia Hommel  
Its: Vice President

[Trustee Signature Page to *Jordan Downs* Trust Indenture]

**EXHIBIT A**  
**FORM OF BOND**

SUBJECT TO THE EXCEPTIONS SET FORTH IN THE INDENTURE (HEREINAFTER DEFINED), THE PURCHASER OF THIS BOND MUST BE A “QUALIFIED INSTITUTIONAL BUYER” WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT OF 1933 OR AN INSTITUTIONAL “ACCREDITED INVESTOR” UNDER REGULATION D OF THE SECURITIES ACT OF 1933, MUST (IF AND TO THE EXTENT EXPRESSLY REQUIRED IN THE INDENTURE) BE APPROVED BY THE ISSUER AND WILL BE REQUIRED TO EXECUTE AND DELIVER AN INVESTMENT LETTER AGREEMENT THAT WILL, AMONG OTHER THINGS, RESTRICT TRANSFER OF THIS BOND.

[\$28,000,000] [10,000,000]  
CITY OF LOS ANGELES  
MULTIFAMILY HOUSING REVENUE BOND  
(JORDAN DOWNS PHASE 1A APARTMENTS)  
[SERIES 2016P-1] [TAXABLE SERIES 2016P-2]

No. \_\_\_\_\_

CUSIP No. 544582 [\_\_\_\_]

Dated Date: [\_\_\_\_\_, 2016]

Registered Owner: BANK OF AMERICA, N.A.

Maturity Date: [\_\_\_\_\_] 1, 20[\_\_\_\_\_]

Interest Rate: As stated below

The CITY OF LOS ANGELES (hereinafter called the “Issuer”), a municipal corporation and charter city of the State of California, for value received, hereby promises to pay (but only from the sources and as hereinafter provided) to the Registered Owner specified above, or registered assigns, the principal amount of \$[28,000,000] [10,000,000], or so much of such maximum authorized principal amount as may have been purchased by the Owner of this Bond from time to time in accordance with the terms of this Bond and Section 3.01(c) of the Indenture (described below) on the Maturity Date specified above, upon presentation and surrender of this Bond (if required by the Indenture) at the principal office of U.S. Bank National Association or its successor as trustee (the “Trustee”), under the Indenture, and to pay (but only from the sources and as hereinafter provided) interest on said principal amount at the interest rate set forth above, from and including the dated date hereof until the principal amount shall have been paid in accordance with the terms of this Bond and the Indenture, as and when set forth below, but only from the sources and as hereinafter provided, by wire transfer or otherwise by check or draft mailed to the record Owner of Bonds as the same appear upon the books of registry to be maintained by the Trustee, as registrar.

This Bond is the Bond of the Issuer designated City of Los Angeles Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments), [Series 2016P-1] [Taxable Series 2016P-2] and issued in the aggregate principal amount of \$[28,000,000] [10,000,000] (the “Bond”). The Bond is issued for the purpose of loaning the proceeds of the Bond to Jordan Downs 1A, LP, a California limited partnership (the “Borrower”), in order to finance a portion of the costs of the acquisition, construction and

equipping of a 114-unit (plus 1 manager unit) multifamily residential housing project in Los Angeles, California (the "Project").

THIS BOND IS BEING ISSUED AS A DRAW-DOWN BOND IN THAT THE HOLDER OF THE BOND WILL PURCHASE THE PRINCIPAL AMOUNT OF THE BOND IN INSTALLMENTS, AT PAR, IN ACCORDANCE WITH THE TERMS OF AND AS REQUIRED BY SECTION 3.01(c) OF THE INDENTURE. ACCORDINGLY, THE PRINCIPAL AMOUNT OF THE BOND WHICH HAS BEEN PURCHASED BY THE HOLDER AND IS OUTSTANDING AT ANY GIVEN TIME MAY BE LESS THAN THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND AS SET FORTH ON THE FACE OF THIS BOND. UPON EACH PURCHASE OF A PORTION OF THE PRINCIPAL AMOUNT OF THE BOND IN ACCORDANCE WITH THE TERMS OF SECTION 3.01(c) OF THE INDENTURE, THE TRUSTEE WILL NOTE ON A LOG MAINTAINED BY THE TRUSTEE FOR SUCH PURPOSE THE PRINCIPAL AMOUNT OF THE BOND SO PURCHASED AND THE DATE OF SUCH PURCHASE. THE RECORDS MAINTAINED BY THE TRUSTEE IN SUCH REGARD WILL BE CONCLUSIVE EVIDENCE OF THE PRINCIPAL AMOUNT OF THE BOND WHICH HAS BEEN PURCHASED AND IS OUTSTANDING. IF PRESENTED TO THE TRUSTEE BY THE HOLDER OF THIS BOND, THE PRINCIPAL AMOUNT OF THE BOND PURCHASED BY THE OWNER OF THIS BOND WILL BE NOTED BY THE TRUSTEE ON SCHEDULE 1 ATTACHED TO THIS BOND.

PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND MAY BE MADE DIRECTLY TO THE REGISTERED OWNER HEREOF WITHOUT NOTATION HEREON. IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR ANY PART OF THE PRINCIPAL OF OR INTEREST ON THIS BOND HAS BEEN PAID.

This Bond is issued under and pursuant to the Trust Indenture dated as of [\_\_\_\_\_] 1, 2016 between the Issuer and the Trustee (as amended and supplemented from time to time, the "Indenture"), and pursuant to the Law and in accordance with the Act (as such terms are defined in the Indenture). Reference is made to the Indenture, the Law and the Act for a full statement of their respective terms. Capitalized terms used herein and not otherwise defined herein have the respective meanings accorded such terms in the Indenture, which is hereby incorporated herein by reference. The Bond issued under the Indenture is expressly limited to \$[28,000,000] [10,000,000] in aggregate principal amount at any time Outstanding. Pursuant to a Loan Agreement (the "Loan Agreement") and a Promissory Note (the "Note") dated as of [\_\_\_\_\_] 1, 2016, the Borrower has agreed to make payments to the Trustee in amounts equal to amounts of principal of and interest on the Bond.

**THIS BOND IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE CITY OF LOS ANGELES, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE REVENUES, FUNDS AND ASSETS PLEDGED UNDER THIS INDENTURE AND NOT FROM ANY OTHER REVENUES, FUNDS OR OTHER ASSETS OF THE ISSUER AND NEITHER THE CITY OF LOS ANGELES, THE STATE OF CALIFORNIA NOR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON.**

**NO MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THIS BOND, SHALL BE LIABLE PERSONALLY ON THIS BOND OR FOR ANY REASON RELATING TO THE ISSUANCE OF THIS BOND. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS BOND, OR FOR ANY CLAIM BASED ON THIS BOND, OR OTHERWISE IN RESPECT OF THIS BOND, OR BASED ON OR IN**

**RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, PAST, PRESENT OR FUTURE, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THIS BOND, EXPRESSLY WAIVED AND RELEASED.**

**THIS BOND HAS BEEN ISSUED PURSUANT TO THE LAW AND IN ACCORDANCE WITH THE ACT.**

*Interest Rates.* This Bond shall bear interest at the rates and for the periods set forth in the Indenture.

*Usury.* Notwithstanding any provision of this Bond to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (including any other costs or considerations that constitute interest under the laws of the State which are contracted for, charged or received pursuant to this Bond) exceed the maximum rate of nonusurious interest allowed under the laws of the State as presently in effect and to the extent of any increase allowable by such laws. To the extent permitted by law, interest contracted for, charged or received on this Bond shall be allocated over the entire term of this Bond, to the end that interest paid on this Bond does not exceed the maximum amount permitted to be paid thereon by law. Excess interest, if any, provided for in this Bond, or otherwise, shall be canceled automatically as of the date of such acceleration or, if theretofore paid, shall be credited as principal paid on this Bond.

*Registration and Transfer.* THIS BOND IS SUBJECT TO THE TRANSFER RESTRICTIONS SET FORTH IN THE INDENTURE. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the office of the Trustee as registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond, of the same maturity, of the same series designation and for the same aggregate principal amount, will be issued to the transferee in exchange herefor. This Bond is issuable as a fully registered Bond in Authorized Denominations as provided in the Indenture. The Issuer, the Trustee, and any other person may treat the person in whose name this Bond is registered on the books of registry as the Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and no person shall be affected by notice to the contrary.

*Redemption of Bond.* This Bond is subject to optional and mandatory redemption (and purchase in lieu of redemption by the Borrower) prior to maturity as a whole or in part at such time or times, under such circumstances, at such redemption prices and in such manner as is set forth in the Indenture.

*Enforcement.* Only the Servicer shall have the right to direct the Trustee to enforce the provisions of this Bond or the Indenture or to institute any action to enforce the covenants herein or therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. If an Event of Default occurs and is continuing, the principal of this Bond then outstanding may be declared due and payable by the Servicer upon the conditions and in the manner and with the effect provided in the Indenture. As provided in the Indenture, and to the extent permitted by law, interest and a penalty rate of interest shall be payable on unpaid amounts due hereon.

***Discharge.*** The Indenture prescribes the manner in which it may be discharged and after which this Bond shall be deemed to be paid and no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of this Bond and of such payment.

***Modifications.*** Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond shall not be valid or obligatory for any purpose until it shall have been signed on behalf of the Issuer and such signature attested by the officer and in the manner provided in the Indenture, and authenticated by a duly authorized officer of the Trustee, as Authenticating Agent.

It is hereby certified and recited that all conditions, acts and things required by the statutes of the State, by the Law or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of this Bond, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes.

In the event of any inconsistency between the provisions of this Bond and the provisions of the Indenture, the provisions of the Indenture shall control.



IN WITNESS WHEREOF, the City of Los Angeles has caused this Bond to be duly executed in its name by the manual or facsimile signature of its Mayor under its official seal, or a facsimile, and its corporate seal to be impressed or printed hereon and attested by the manual or facsimile signature of its City Treasurer all as of the date first written above.

(SEAL)

CITY OF LOS ANGELES

---

City Treasurer

---

Mayor

**FORM OF CERTIFICATE OF AUTHENTICATION**

This Bond This Bond described in the within mentioned Indenture and issued under the provisions of the within mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

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

Date of Authentication: \_\_\_\_\_

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within and hereby authorizes the transfer of this Bond on the registration books of the Trustee.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name of Transferee

\_\_\_\_\_  
Signature Guaranteed by

[NAME OF BANK]

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**SCHEDULE A**

\$[28,000,000][10,000,000]  
CITY OF LOS ANGELES  
MULTIFAMILY HOUSING REVENUE BOND  
(JORDAN DOWNS PHASE 1A APARTMENTS),  
[SERIES 2016P-1] [TAXABLE SERIES 2016P-2]

**Draw-Down Purchases**

The installment reflected by the draw-down of this Bond may be registered only by the registered owner in person or by its duly authorized officer or attorney upon presentation hereof to the Bond Registrar, who shall make note thereof in the books kept for such purpose and in the registration blank below.

| <b>Date of Draw-Down</b> | <b>Name of Registered Owner</b> | <b>Principal Amount</b> | <b>Signature of Bond Registrar</b> |
|--------------------------|---------------------------------|-------------------------|------------------------------------|
| _____                    | _____                           | _____                   | _____                              |
| _____                    | _____                           | _____                   | _____                              |
| _____                    | _____                           | _____                   | _____                              |
| _____                    | _____                           | _____                   | _____                              |
| _____                    | _____                           | _____                   | _____                              |

**EXHIBIT B**

**FORM OF INVESTOR LETTER**

[\_\_\_\_\_, \_\_\_\_\_]

City of Los Angeles  
Los Angeles, California

Kutak Rock LLP  
Omaha, Nebraska

U.S. Bank National Association  
Los Angeles, California

\$[38,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P-1 and  
Taxable Series 2016P-2

Ladies and Gentlemen:

The undersigned (the “Investor”) hereby represents and warrants to you as follows:

1. The Investor proposes to purchase all of the aggregate principal amount of the above-referenced bond (the “Bond”) issued pursuant to that certain Trust Indenture, dated as of [\_\_\_\_\_] 1, 2016 (the “Indenture”), between the City of Los Angeles (the “Issuer”) and U.S. Bank National Association, as trustee (the “Trustee”). The Investor understands that the Bond is not rated by any securities rating agency and are secured only by the Jordan Downs Phase 1A Apartments and the revenues therefrom, and will be sold to the Investor in reliance upon the representations and warranties of the Investor set forth herein. The Investor acknowledges that no offering document has been prepared in connection with the issuance and sale of the Bond. The Investor has requested and received all materials which the Investor has deemed relevant in connection with its purchase of the Bond (the “Offering Information”). The Investor has reviewed the documents executed in conjunction with the issuance of the Bond, including, without limitation, the Indenture and the Loan Documents. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Indenture.

2. The Investor hereby waives the requirement of any “due diligence investigation or inquiry” by the Issuer, by each employee of the Issuer, by each member of the City Council of the Issuer, and by counsel to the Issuer, the Trustee, counsel to the Trustee and Bond Counsel in connection with the authorization, execution, delivery of the Bond and Investor’s purchase of the Bond. The Investor recognizes and agrees that the Issuer, each employee of the Issuer, each member of the City Council of the Issuer, counsel to the Issuer, the Trustee, counsel to the Trustee and Bond Counsel have made no representations or statements (expressed or implied) with respect to the accuracy or completeness of any of the materials reviewed by the Investor in connection with the Investor’s purchase of the Bond. In making an investment decision, the Investor is relying upon its own examination of the Issuer, the Borrower, the Project and the terms of the offering.

3. The Investor has been provided an opportunity to ask questions of, and the Investor has received answers from, representatives of the Issuer and the Borrower regarding the terms and conditions

of the Bond, and the Investor has obtained all additional information requested by it in connection with the Bond.

4. The Investor has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bond in particular, and is capable of evaluating the merits and risks involved in an investment in the Bond. The Investor is able to bear the economic risk of, and an entire loss of, an investment in the Bond.

5. The Investor is purchasing the Bond solely for its own account for investment purposes and, except as contemplated by the Indenture, has no present intention to resell or distribute the Bond, provided that the Investor reserves the right to transfer or dispose of the Bond in whole (but not in part), at any time, and from time to time, in its complete and sole discretion, subject, however, to the restrictions described in paragraphs 6 through 8 of this Letter. The Investor hereby agrees that the Bond may only be transferred in whole to a transferee, which must execute and deliver to the parties addressed above a form of this Investor Letter and only, if and to the extent required in the Indenture, with the prior written consent of the Issuer, which shall not be unreasonably withheld.

6. The Investor agrees that it will only offer, sell, pledge, transfer or exchange the Bond (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended (the "1933 Act"), (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Bond and the Indenture. The Investor further agrees that the Bond will not be transferred to or held in a pool, trust or similar arrangement and that it will not sell any participating interest in the Bond without the prior written consent of the Issuer.

7. The Investor is a "qualified institutional buyer" as defined in Rule 144A ("Rule 144A") promulgated under the Securities Act of 1933 (the "33 Act") or an institutional "accredited investor" defined in Rule 501 of Regulation D promulgated under the 33 Act; it understands that the Bond may be offered, resold, pledged or transferred only to a person who is a "qualified institutional buyer," as defined in Rule 144A ("QIBs"), in compliance with Rule 144A or an institutional accredited investor and, except in the case of transfer to JPMorgan, only with the consent of the Issuer.

8. If the Investor sells the Bond (or any legal or beneficial interest therein), the Investor or its agent will obtain for the benefit of each of you from any subsequent purchaser an Investor Letter in the form of this letter or such other materials as are required by the Bond and the Indenture to effect such sale and purchase. The Investor understands and agrees that the Trustee is not authorized to register any transfer of the Bond prior to receipt of such Investor Letter and evidence of Issuer consent pursuant to paragraph 6 above.

9. Neither the Trustee, the Bond Counsel to the Issuer, the Issuer, its governing body, or any of its employees or agents will have any responsibility to the Investor for the accuracy or completeness of information obtained by the Purchaser from any source regarding the Project, the Issuer, the Borrower or their financial conditions or regarding the Bond, the provisions for payment thereof, or the sufficiency of any security therefor, including, without limitation, any information specifically provided by any of such parties contained in the Offering Information. The Investor acknowledges that, as between Investor and all of such parties: (a) the Investor has assumed responsibility for obtaining such information and making such review as the Investor has deemed necessary or desirable in connection with its decision to purchase the Bond and (b) the Offering Information and any additional information specifically requested from the Issuer or the Borrower and provided to the Investor prior to closing constitute all the information and review, with the investigation made by Investor (including specifically the Investor's investigation of the

Issuer, the Project and the Borrower) prior to its purchase of the Bond, that Investor has deemed necessary or desirable in connection with its decision to purchase the Bond.

10. The Investor understands that (a) the Bond has not been registered with any federal or state securities agency or commission, and (b) no credit rating has been sought or obtained with respect to the Bond, and the Investor acknowledges that the Bond is a speculative investment and that there is a high degree of risk in such investment.

11. The Investor acknowledges that the Bond is a limited obligation of the Issuer, payable solely from amounts provided by or at the direction of the Borrower, and is not an obligation payable from the general revenues or other funds of the Issuer, the State of California or any other political subdivision of the State of California. The Investor acknowledges that the Issuer is issuing the Bond on a conduit, nonrecourse basis, and has no continuing obligations with respect thereto except as expressly set forth in the Indenture.

12. The undersigned is a duly appointed, qualified and acting officer of the Investor and authorized to make the certifications, represents and warranties contained herein.

13. The Investor agrees to indemnify and hold harmless the Issuer, the Issuer's officials, officers, directors, employees, agents, attorneys, accountants, advisors, consultants, servants and the members of the governing board of the Issuer past, present and future with respect to any claim asserted against any of them that is based upon the Investor's sale, transfer or other disposition of its interests in the Bond in violation of the provisions hereof or of the Indenture or any inaccuracy in any statement made by the Investor in this letter.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

Very truly yours,

[\_\_\_\_\_], as Purchaser

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

**EXHIBIT C**

**FORM OF REDEMPTION SCHEDULE**

[\$28,000,000] [10,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
[Series 2016P-1] [Taxable Series 2016P-2]

**Redemption Schedule**

| Payment Date | Beginning<br>Balance | Payment | Interest | Principal |
|--------------|----------------------|---------|----------|-----------|
|--------------|----------------------|---------|----------|-----------|



**EXHIBIT D**

**FORM OF RESPONSIBLE BANKING ORDINANCE CERTIFICATE  
RESPONSIBLE BANKING ORDINANCE  
REPRESENTATIONS AND COVENANTS OF BANK**

[ , 201 ]

City of Los Angeles  
Los Angeles, California

[\$38,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P and  
Taxable Series 2016P-2

Ladies and Gentlemen:

The undersigned, on behalf of [ ] (the “Bank”), does hereby certify to the following as of the date of this certificate, relating to the Bank’s purchase from the City of Los Angeles (the “City”) of the City’s \$[38,000,000] initial aggregate principal amount of Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Series 2016P-1 and Taxable Series 2016P-2 (together, the “Bond”):

(a) The Bank shall file with the City Treasurer of the City by July 1 of each year an annual statement of community reinvestment activities as required of a “commercial bank” under the City’s Ordinance 182138 adopted May 25, 2012 (the “Responsible Banking Ordinance”); and

(b) The Bank represents that it has, prior to the date hereof, filed with the City Treasurer the report due by [ ] 1, 20\_\_ under the Responsible Banking Ordinance for calendar year [ ].

[Remainder of this page intentionally left blank.]

Very truly yours,

[BANK]

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

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

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

**ATTACHMENT D**  
**HCIDLA Request for Issuance of Bonds for Jordan Downs Phase 1A**

*Regulatory Agreement for Jordan Downs Phase 1A on next page.*

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

KUTAK ROCK LLP  
1650 FARNAM STREET  
OMAHA, NE 68102  
ATTENTION: J. TOGER SWANSON, ESQ.

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**REGULATORY AGREEMENT  
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

**CITY OF LOS ANGELES,**  
as City

and

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

and

**JORDAN DOWNS 1A, LP,**  
as Borrower

relating to

**[\$28,000,000]  
City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P-1**

Dated as of [ \_\_\_\_\_ ] 1, 2016

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**REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS**

**THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** (this “Agreement” or this “Regulatory Agreement”) is made and entered into and dated as of [\_\_\_\_\_] 1, 2016 by and among the **CITY OF LOS ANGELES**, a charter city and municipal corporation in the State of California (together with any successor to its rights, duties and obligations, the “City”), **U.S. BANK NATIONAL ASSOCIATION**, a national banking association in its capacity as Trustee (the “Trustee”) under the Trust Indenture (the “Indenture”) dated as of [\_\_\_\_\_] 1, 2016 by and between the City and the Trustee, with an office in Los Angeles, California, and **JORDAN DOWNS 1A, LP**, a California limited partnership (the “Borrower”).

**WITNESSETH:**

WHEREAS, pursuant to Section 248 of the City Charter of the City 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, as amended (the “Act”), the City is empowered to issue notes and other evidence of indebtedness to finance the acquisition and construction of multifamily rental housing; and

WHEREAS, on May 20, 2016 the City indicated its intent to provide for the issuance of a revenue bond or note to finance a portion of the acquisition and construction of Jordan Downs Phase 1A Apartments, a multifamily residential rental housing project to be located in the City of Los Angeles at 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002 on the leasehold site more particularly described in Exhibit A hereto (the “Project”) and the City Council of the City subsequently adopted a resolution (the “Resolution”) authorizing the issuance of a bond for such purpose; and

WHEREAS, Housing Authority of the City of Los Angeles (the “Fee Owner”) as owner of fee simple title to property described in Exhibit A has leased the real property described in Exhibit A hereto to the Borrower pursuant to the Ground Lease (as hereinafter defined); and

WHEREAS, in furtherance of the purposes of the Law, the Act and the Resolution, and as a part of the City’s program of financing housing, the City has issued \$[28,000,000] maximum aggregate principal amount of its Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Series 2016P-1 (the “Bond”) the proceeds of which will be used to fund a loan (the “Loan”) to the Borrower to finance a portion of the acquisition and construction of the Project; and

WHEREAS, in order for interest on the Bond to be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the “Code”), and the below-defined Regulations and rulings with respect to the Code, and in order to comply with the Law, the Act and the policies with respect to the City’s housing program, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the City, the Trustee and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition and construction of the Project and in order to ensure that the Project will be used and operated in accordance with the Code, the Law, the Act and the additional requirements of the City;

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

**Section 1. Definitions and Interpretation.** Terms not otherwise defined herein shall have the meanings assigned thereto in the Indenture or Loan Agreement, as applicable. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

“*Act*” means Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as the same may be amended from time to time (but only to the extent any such amendments, by their terms or by appropriate election of the City, apply to the Bond outstanding as of the effective date of such amendments).

“*Adjusted Income*” means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) calculated pursuant to Section 142(d)(2)(B) of the Code.

“*Affiliated Party*” means a limited or general partner or member of the Borrower, a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code or a person who, together with the Borrower, is a member 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).

“*Agreement*” or “*Regulatory Agreement*” means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

“*Area*” means the Los Angeles Primary Metropolitan Statistical Area.

“*Authorized Borrower Representative*” means any person who, at any time and from time to time, may be designated as the Borrower’s authorized representative by written certificate furnished to the City and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates, or in the event that such term shall refer to successors or assigns of the Borrower, any authorized general partner if the successor or the assignee is a general or limited partnership, any authorized managing member if the successor or assignee is a limited liability company or any authorized officer if the successor or the assignee is a corporation. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an



Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the City) a written certificate identifying a different person or persons to act in such capacity.

“*Bond Counsel*” means an attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the validity of, and the Tax-exempt nature of interest on, obligations issued by states and their political subdivisions, selected by the City and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia but shall not include counsel for the Borrower or the Trustee.

“*Bond Documents*” means the Indenture, the Loan Agreement, this Regulatory Agreement, the Tax Certificate and any other document now or hereafter executed by the Borrower, City, Trustee or Bondholder in connection with the Bond.

“*Bondholder*” or “*Owner*” or “*Holder*” means the party identified as the owner of the Bond on the registration books maintained by the Trustee on behalf of the City.

“*Bond*” means the bond authorized, authenticated and delivered under the Indenture, as defined in the recitals hereto.

“*Borrower*” means Jordan Downs 1A, LP, a California limited partnership, and its successors and assigns.

“*CDLAC*” means the California Debt Limit Allocation Committee or its successors.

“*CDLAC Conditions*” has the meaning set forth in Section 7(d) hereof.

“*Certificate of Continuing Program Compliance*” means the Certificate of Continuing Program Compliance and Statistical Report to be filed by the Borrower with the City and the Trustee at the times specified in Sections 4(d) and (f) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit B or such other form as may from time to time be prescribed by the City.

“*City*” means the City of Los Angeles, a charter city and municipal corporation of the State of California.

“*Closing Date*” or “*Bond Closing Date*” means the date upon which the Bond is initially funded in an amount equal to at least \$50,001.

“*Code*” means the Internal Revenue Code of 1986; each reference to the Code shall be deemed to include (a) any successor internal revenue law and (b) the applicable regulations whether final, temporary or proposed under the Code or such successor law.

“*Completion Certificate*” means the certificate of completion of the Project required to be delivered to the City and the Trustee by the Borrower pursuant to Section 2(h) hereof.

“*Completion Date*” means the date of the completion of the acquisition and construction of the Project, as that date shall be certified as provided in Section 2(h) hereof.

“*Costs of Issuance*” means costs of issuing the Bond as set forth in the Indenture.

“*Determination of Taxability*” means either (a) refusal by the Borrower to consent to any amendment or supplement hereto or to the Indenture which, in the opinion of Bond Counsel, is necessary or advisable to maintain the exclusion of interest on the Bond from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Trustee has actual knowledge, (ii) a final judgment or order of a court of original or appellate jurisdiction of which the Trustee has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Trustee has actual knowledge or (iv) the filing with the Trustee of an opinion of Bond Counsel, in each case to the effect that the interest on the Bond (other than interest on the Bond for any period during which such Bond is held by a “substantial user” of any facility financed with the proceeds of the Bond or a “related person,” as such terms are used in Section 147(a) of the Code) is includable in the gross incomes of all recipients thereof for federal income tax purposes. With respect to the foregoing, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal has expired.

“*Ground Lease*” means the Ground Lease dated as of [\_\_\_\_], 2016 by and between the Fee Owner, as landlord, and the Borrower, as tenant.

“*Hazardous Materials*” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Project is prohibited by any federal, state or local authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

“*Hazardous Materials Laws*” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Borrower or to the Project. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

“*Housing Act*” means the United States Housing Act of 1937, as amended, or its successor.

“*Income Certification*” means, initially, a Verification of Income in the form attached hereto as Exhibit C or in such other form as may from time to time be provided by the City to the Borrower and, with respect to recertifications, the Income Certification attached hereto as Exhibit D or such other form as may, from time to time, be provided by the City to the Borrower.

“*Indenture*” means the Trust Indenture dated as of [\_\_\_\_\_] 1, 2016 by and among the City, the Initial Bondowner Representative and the Trustee relating to the issuance of the Bond, as amended, modified, supplemented or restated from time to time.

“*Inducement Date*” means May 20, 2016.

“*Loan*” means the loan of the sale proceeds of the Bond by the City to the Borrower pursuant to the Loan Agreement for the purpose of providing funds for the acquisition and construction of the Project.

“*Loan Agreement*” means the Loan Agreement dated as of [\_\_\_\_\_] 1, 2016 by and among between the City, the Trustee and the Borrower, as amended or supplemented from time to time.

“*Low Income Tenant*” means a tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of lower-income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as lower income shall be [60]% of median gross income for the Area with adjustments for family size. Except as otherwise provided herein, the occupants of a unit in the Project shall not be considered to be Low Income Tenants if all the occupants of a unit are students (as defined in Section 152(f)(2) of the Code) and any one of those students is not (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act) or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents. The determination of a tenant’s status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such Tenant and annually thereafter and at any time the Borrower has knowledge that the number of occupants in that unit has increased, on the basis of an Income Certification executed by the tenant. Low Income Tenants reside in Low Income Units.

“*Low Income Units*” means the units in the Project required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a), 4(b) and 6(a) hereof.

“*Net Proceeds*” means the total proceeds derived from the issuance, sale and delivery of the Bond, representing the total purchase price of the Bond, including any premium paid as part

of the purchase price of the Bond, but excluding the accrued interest, if any, on the Bond paid by the initial purchaser of the Bond.

*“Project”* means the Project Facilities and the Project Site.

*“Project Costs”* means, to the extent authorized by the Code, the Regulations, the Law and the Act, any and all costs incurred by the Borrower with respect to the acquisition and construction and the credit enhancement fees, if any, attributable to the period of, the construction of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site preparation, the planning of housing, related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the construction of housing and related facilities and improvements, and all other work in connection therewith, including Qualified Project Costs, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors’ and developer’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or other entity or person for expenditures made, for the Project).

*“Project Facilities”* means the buildings, structures and other improvements on the Project Site to be acquired, constructed or improved by the Borrower, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project. Project Facilities do not include retail sales facilities, leased office space, commercial facilities or recreational, fitness, parking or business facilities available to members of the general public.

*“Project Site”* means the parcel or parcels of real property having the street address of 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002 in the City of Los Angeles, California and all rights and appurtenances thereunto appertaining, as more particularly described in Exhibit A hereto in which a leasehold estate is granted under the Ground Lease.

*“Qualified Project Costs”* means the Project Costs (excluding issuance costs) incurred not earlier than the date 60 days prior to the Inducement Date which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code, or are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Bond during the construction of the Project shall constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing on or after the Completion Date shall not be Qualified Project Costs; and provided finally that if any portion of the Project is being constructed by the Borrower or an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified Project Costs” shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory

services actually rendered by the Borrower or such Affiliated Party (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof). Qualified Project Costs do not include Costs of Issuance. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute "Qualified Project Costs" unless, at the time Bond proceeds are expended to pay such costs, the Borrower and the seller of such assets are not "related parties" as such term is defined in Section 1.150-1(b) of the Regulations.

*"Qualified Project Period"* means the period beginning on the first day on which 10% of the dwelling units in the Project are first occupied and ending on the latest of (a) the date which is 15 years after the date on which 50% of the dwelling units in the Project are first occupied, (b) the first date on which no tax-exempt private activity bond (as that phrase is used in Section 142(d)(2) of the Code) issued with respect to the Project is outstanding or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates. The CDLAC Conditions apply for a period which, in some cases, exceeds the Qualified Project Period.

*"RAD Agreement"* means that Rental Assistance Demonstration Use Agreement between the Borrower and HUD.

*"Regulations"* means the Income Tax Regulations promulgated or proposed (if deemed appropriate in the opinion of Bond Counsel) by the Department of the Treasury pursuant to the Code from time to time.

*"Tax Certificate"* means the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 dated the Closing Date, executed and delivered by the City and the Borrower, as amended, modified, supplemented or restated from time to time.

*"Tax-exempt"* means, with respect to interest on any obligations of a state or local government, including the Bond, that such interest is excluded from gross income for federal income tax purposes (other than interest on the Bond for any period during which the Bond is held by a "substantial user" of any facility financed with the proceeds of the Bond or a "related person," as such terms are used in Section 147(a) of the Code); provided, however, that 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.

*"Trustee"* means U.S. Bank National Association in its capacity as trustee under the Indenture, together with its successors and assigns.

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

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

**Section 2. Acquisition and Construction of the Project.** The Borrower hereby represents as of the date hereof, covenants and agrees with the City and the Trustee as follows:

(a) The Borrower has incurred, or will incur within six months after the Closing Date, a substantial binding obligation to commence the acquisition (of its leasehold interest in) and construction of the Project, pursuant to which the Borrower is or will be obligated to expend at least 5% of the proceeds of the Loan financed from proceeds of the Bond.

(b) The Borrower's reasonable expectations respecting the total cost of the acquisition and construction of the Project are accurately set forth in the Borrower Cost Certificate (the "Borrower Cost Certificate") submitted to the City on the Closing Date.

(c) The Borrower has acquired a leasehold interest in the Project Site and will, within six months following the Bond Closing Date, commence the construction of the Project and will proceed with due diligence to complete the same. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute "Qualified Project Costs" unless, at the time Bond proceeds are expended to pay such costs, the Borrower and the seller of such assets are not "related parties" as such term is defined in Section 1.150-1(b) of the Regulations. The Borrower reasonably expects to complete the acquisition and construction of the Project and to expend the full amount of the proceeds of the Loan for Project Costs prior to the date which is 30 months after the Closing Date.

(d) The Borrower agrees that the full amount of each disbursement of Bond proceeds pursuant to the Indenture and the Loan Agreement will be applied to pay or to reimburse the Borrower for the payment of Project Costs as set forth in the Borrower Cost Certificate and that, after taking into account each such disbursement, (i) the aggregate disbursements of Bond Proceeds will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an aggregate amount equal to

97% or more of the aggregate disbursements of the Loan; provided, however, that if the Borrower provides the Trustee with an opinion of Bond Counsel to the effect that the Tax-exempt status of interest on the Bond will not be adversely affected if less than the aforesaid percentage, but not less than 95%, is disbursed for such purpose, then the certificate may refer to such lesser percentage as may be specified by Bond Counsel; and (ii) less than 25% of the proceeds of the Loan expended relative to the Project Site will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land or rights with respect to land relative to the Project Site.

(e) On the Completion Date of the Project, the Borrower will submit to the City and the Trustee a duly executed and completed Completion Certificate as provided in Section 2(h) hereof.

(f) No proceeds of Bond will be used to pay or reimburse any cost (i) incurred more than sixty days prior to the Inducement Date, or (ii) incurred more than three years prior to such payment or reimbursement. Any allocation of Bond proceeds to the reimbursement of previously incurred costs shall be made not later than 18 months after the later of (i) the date the original expenditure was paid or (ii) the date the Project is placed in service or abandoned. The acquisition, construction and equipping of the Project by the Borrower commenced less than 60 days prior to the Inducement Date, and as of 60 days prior to the Inducement Date (A) neither the Borrower nor any related person (as such phrase is used in Section 147(a)(2) of the Code) has made any expenditure in connection with the acquisition, construction or equipping of the Project, (B) no on-site work has been commenced by the Borrower or any related person in connection with the construction of the Project, and (C) no off-site fabrication of any portion of the Project has been commenced by the Borrower or any related person. The Project consists, and shall at all times consist, of property which is land or is subject to the allowance for depreciation provided in Section 167 of the Code.

(g) The Borrower (and any Affiliated Party) 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 Loan to be applied in a manner contrary to the requirements of this Regulatory Agreement, nor will it take or omit to take any such action if the Borrower (or any Affiliated Party) knows that such action or omission may cause the proceeds from the sale of the Bond to be applied in a manner contrary to the Indenture, the Loan Agreement, the Law, the Act or the Code.

(h) The Borrower shall, on the Completion Date, evidence the Completion Date by providing a Completion Certificate to the Trustee and the City, signed by the Authorized Borrower Representative, stating the total cost of the Project and identifying the total acquisition cost (which shall specify the costs attributable to land and the costs attributable to buildings) and the total Qualified Project Costs and further stating that (A) construction of the Project has been completed substantially in accordance with the plans, specifications and work orders therefor, and all labor, services, materials and supplies used in construction have been paid for and (B) all other facilities necessary in connection with the Project have been acquired, constructed and installed substantially in accordance with the plans, specifications, work write-up and work orders therefor and all

costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights of the Borrower against third parties for the payment of any amount not then due and payable which exist at the date of such certificate or which may subsequently exist.

(i) The foregoing certificate evidencing the Completion Date shall be delivered to the Trustee no later than the date 36 months from the Closing Date unless the Borrower delivers to the Trustee a certificate of the City consenting to an extension of such date, accompanied by an opinion of Bond Counsel to the effect that such extension will not result in interest on the Bond being included in gross income for federal income tax purposes. The Borrower agrees to spend additional moneys for payment of any costs of the Project sufficient to reduce the portion of Bond proceeds (A) spent on land by the Borrower relative to the Project Site to an amount that is less than 25% of the amount of Bond proceeds spent by the Borrower relative to the Project Site for all purposes and (B) spent on costs of the Project paid or incurred by or on account of the Borrower or any related person (as such term is used in Section 147(a)(2) of the Code) on or after the date 60 days prior to the Inducement Date and chargeable to the capital account of the Project (or so chargeable either with a proper election by the Borrower to deduct such amounts, within the meaning of Treasury Regulation 1.103-8(a)(1)) so that the amount of Bond proceeds expended on such Qualified Project Costs are at least 97% of the amount of Bond proceeds spent for all purposes related to the Project, except that, upon receipt by the Borrower, the Trustee and the City of an approving opinion of Bond Counsel, the percentage of such amounts so used may be 95%.

(j) No Bond proceeds shall be expended to acquire any structures other than buildings within the meaning of Section 147(d) of the Code.

**Section 3. Residential Rental Property.** 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 Qualified Project Period, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project Facilities will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project Facilities as a project to provide multifamily residential rental property comprising 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 and Section 1.103-8(b) of the Regulations, the Law and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. For purposes of this Subsection 3(a), the term “functionally related and subordinate facilities” includes facilities for use by the tenants (for example, swimming pools, other recreational facilities and parking areas) and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment and units for resident managers and maintenance personnel. Substantially all of the Project will contain such units and functionally related and subordinate facilities.



(b) All of the dwelling units in the Project will be similarly constructed units, and each Low Income Unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range and oven, a sink and a refrigerator. Each of the Accessible Housing Units (as defined in Exhibit I hereto) shall also comply with the requirements of Exhibit I. Notwithstanding the foregoing, a unit shall not fail to be treated as a residential unit merely because such unit is a single room occupancy unit within the meaning of Section 42(i)(3)(B)(iv) of the Code even though such housing may provide eating, cooking and sanitation facilities on a shared basis.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park. Notwithstanding the foregoing, single-room occupancy units provided under Section 42(i)(3)(B)(iv) of the Code shall not be considered to be utilized on a transient basis.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. Other than filing a condominium map and a final subdivision map on the Project and obtaining a Final Subdivision Public Report from the California Department of Real Estate, the Borrower shall not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the dwelling units (which shall not include any manager units) will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that for the following: (1) any dwelling units are required to be leased or rented to Low Income Tenants, (2) the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law; and (5) Accessible Housing Units shall be made available to persons with disabilities as provided in Exhibit I.

(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 Project Facilities 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) No dwelling unit in the Project shall be occupied by the Borrower; provided, however, that if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of not more than one dwelling unit by one or more resident managers or maintenance personnel any of whom may be the Borrower.

(h) The Project shall be maintained in conformity with the habitability and fire codes of the City of Los Angeles.

(i) The Project shall be managed in a manner consistent with prudent property management standards and in compliance with all state and local laws, ordinances and regulations relating thereto.

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

**Section 4. Low Income Tenants; Records and Reports.** Pursuant to the requirements of the Code and the City, the Borrower hereby represents, warrants and covenants as follows:

(a) The Project will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property comprising 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 the Law and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. Within 30 days after each of (i) the date on which 10% of the dwelling units in the Project are occupied by tenants; and (ii) the date on which 50% of dwelling units in the Project are occupied by tenants, the Borrower shall execute and deliver to the City (with a copy to the Los Angeles Housing and Community Investment Department, Occupancy Monitoring Section, 1200 West 7<sup>th</sup> Street, 8<sup>th</sup> Floor, Los Angeles, CA 90017), and the Trustee a certificate identifying such dates and the beginning date and earliest ending date of the Qualified Project Period. The Borrower shall use its best efforts to record a copy of such certificates in the Office of the County Recorder of the County of Los Angeles, California.

(b) Commencing on the first day of the Qualified Project Period, Low Income Tenants shall occupy at least [40%] of all completed and occupied units in the Project (excluding units occupied by property managers) before any additional units are occupied by persons who are not Low Income Tenants; and for the Qualified Project Period no less than [40%] of the total number of completed units of the Project (excluding units occupied by property managers) shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph (b), 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. In determining

whether the requirements of this subsection (b) have been met, fractions of units shall be treated as entire units.

(c) 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; provided, however, that should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant; and provided further that, until such next available unit is rented to a tenant who is not 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 [40%] requirement of paragraph (b) of this Section 4 (if applicable). If the Project consists of more than one building, this requirement shall apply on a building-by-building basis.

(d) The Borrower will obtain, complete and maintain on file Income Certifications from each Low Income Tenant, including (i) an Income Certification dated no later than the day prior to the initial occupancy of such Low Income Tenant in the Project and (ii) thereafter, annual Income Certifications dated as of the anniversary date of each initial Income Certification. The Borrower will obtain such additional information as may be required in the future by the State of California, by the City and by Section 142(d) of 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 obligations which are Tax-exempt under Section 142(d) of the Code. A copy of the most recent Income Certification for Low Income Tenants commencing or continuing occupation of a Low Income Unit (and not previously filed with the City) shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the City no later than the fifteenth day of each month until such report indicates compliance with Section 4(b) and thereafter the fifteenth day of each [\_\_\_\_\_] and [\_\_\_\_\_] until the end of the Qualified Project Period. The Borrower shall make a good-faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by obtaining the acceptable forms of verification enumerated in Chapter 3 of the most current, amended edition of HUD Handbook 4350.3, or such instruction by HUD that may supersede this handbook, and any additional documentation that the City shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification satisfactory to the City.

(e) The Borrower will use its best efforts to maintain complete and accurate records pertaining to the Low Income Units, and will with reasonable notice permit any duly authorized representative of the City, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project during regular business hours, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the City and the Trustee, no later than the fifteenth day of each month following the receipt by the Trustee of the Completion Certificate to and including the month in which such report indicates that [40%] of the occupied units (excluding units occupied by managers) are occupied by Low Income Tenants, and thereafter no later than the fifteenth day of each [ ] and [ ] until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the dwelling units of the Project which were occupied or deemed occupied, pursuant to paragraph (b) of this Section 4, by Low Income Tenants during such period; (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; and (iii) that, to the knowledge of the Borrower, no Determination of Taxability has occurred, or if a Determination of Taxability has occurred, setting forth all material facts relating thereto.

(g) On or before each February 15 during the Qualified Project Period, the Borrower will submit to the City a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code. On or before each March 31 during the Qualified Project Period the Borrower will submit such completed form to the Secretary of the Treasury, regardless of whether or not the City has responded to such draft.

(h) Subject to the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, each lease or rental agreement pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the Income Certification 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. Each such lease or rental agreement shall also provide that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and to recertification if the number of occupants in the units changes for any reason (other than the birth of a child to an occupant of such unit) and that if upon any such certification such tenant's Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family size, such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase. Notwithstanding anything in this Section 4(h) to the contrary, such tenant's rent may be increased only pursuant to Section 7(l) hereof.

**Section 5. Tax-exempt Status of the Bond.** The Borrower and the City make the following representations, warranties and agreements for the benefit of the holder of the Bond from time to time:

(a) The Borrower and the City will not knowingly take or permit actions within their control, 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 Bond and, if either

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, provided that the Borrower shall not have violated these covenants if the interest on the Bond becomes taxable to a person solely because such person is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code.

(b) The Borrower and the City will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the City and the Trustee, with a copy to the Borrower, to comply fully with 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 pertaining to obligations the interest on which is Tax-exempt under Section 142(d) of the Code.

(c) The Borrower and the City will file or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the City and the Trustee, with a copy to the Borrower, 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 of Los Angeles.

(d) The Borrower will not knowingly enter into any agreements which would result in the payment of principal or interest on the Bond being “federally guaranteed” within the meaning of Section 149(b) of the Code.

(e) Subject to Section 14 hereof, the Borrower hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project prior to the expiration of the Qualified Project Period to another person 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; provided, however, that so long as any former Borrower has no remaining interest in the Project, such former Borrower shall have no obligation to monitor such transferee’s compliance with such restrictions, and such former Borrower shall incur liability if such transferee fails to comply with such restrictions only in proportion to its then remaining interest.

(f) The Borrower and any related party (as defined in Section 1.150-1(b) of the Regulations) thereto shall not acquire the Bond in an amount related to the amount of the Loan.

**Section 6. Additional Requirements of the Act.** In addition to the requirements set forth in Sections 2 through 5, and without limiting any additional requirements in Section 7, during the Qualified Project Period, the Borrower and the City hereby agree to comply with each of the requirements of the Act, and, without limiting the foregoing, the Borrower hereby specifically agrees to comply with each of the requirements set forth in this Section 6, as follows:

(a) As provided in Section 52097.5 of the Act, not less than [40%] of the total number of units in the Project (excluding units occupied by managers) shall be reserved for occupancy by tenants whose adjusted gross income does not exceed [60%] of the median gross income for the Area, adjusted for family size, as determined pursuant to Section 8 of the Housing Act.

(b) The rents paid by the tenant for the units reserved pursuant to 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 the amount derived by multiplying 30% times [60%] of the median gross income for the Area, adjusted for family size, as determined pursuant to Section 8 of the Housing Act, assuming a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, four persons in the case of a two-bedroom unit, six persons in the case of a three-bedroom unit, and eight persons in the case of a four-bedroom unit.

(c) During the Qualified Project Period the Borrower shall file Certificates of Continuing Program Compliance in the form and at the time required by Sections 4(d) and (f) hereof that shall contain sufficient information to allow the City to file any annual report required by the Act or pursuant to California Government Code Section 8855.5.

(d) No portion of the Bond shall be used to finance the acquisition, construction, rehabilitation, refinancing or development of commercial property for lease.

(e) The Borrower shall not apply selection criteria to certificate holders under Section 8 of the United States Housing Act of 1937, as amended, that are more burdensome than the criteria applied to all other prospective tenants.

(f) Following the expiration or termination of the Qualified Project Period with respect to the Project, except in the event of foreclosure and redemption of the Bond, deed in lieu of foreclosure, eminent domain or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant hereto shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth in (b) above, until the earliest of any of the following occur:

(i) The household's income exceeds 140% of the maximum eligible income specified herein;

(ii) 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 and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development;

(iii) Thirty (30) years after the date of the commencement of the Qualified Project Period relative to the Project; and

(iv) The Borrower pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the California Government Code.

(g) During the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to Low Income Tenants reserved units that have been vacated to the same extent that nonreserved units are made available to tenants other than Low Income Tenants.

Notwithstanding Section 1461 of the California Civil Code, the provisions hereof shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity or any other person adversely affected by the Borrower's failure to comply with this Regulatory Agreement.

**Section 7. Additional Requirements of CDLAC and the City.** In addition to, and not in derogation of, the requirements set forth in the preceding and following sections of this Regulatory Agreement, each of which is hereby incorporated in this Section as a specific requirement of CDLAC and the City, whether or not required by California or federal law, the Borrower represents, warrants, covenants and agrees as follows:

(a) The Borrower shall promptly provide to the City such information with respect to the Project or the Bond as the City shall from time to time request. The Borrower shall provide written notice to the City of receipt of a certificate of occupancy or other official authorization to occupy the Project immediately upon receipt.

(b) The Low Income Units shall be of comparable quality to all other units in the Project, shall be dispersed throughout the Project, and shall offer a range of size and number of bedrooms comparable to those units which are available to other tenants; and Low Income Tenants shall have access to and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other units.

(c) The Borrower agrees that it will not discriminate in the rental of units or in its employment practices against any employee or applicant for employment because of the applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, gender identity/expression, transgender status, disability (except to give priority to persons with disabilities for the occupancy of Accessible Housing Units), marital status, domestic partner status or medical condition. All contracts entered into by the Borrower which relate to the Project shall contain a like provision. The Borrower shall comply with the provisions of Sections 10.8.2 and 10.8.4 of the Administrative Code of the City, the provisions of which are hereby incorporated by reference.

(d) The Borrower shall comply with the conditions set forth in Exhibit A to CDLAC Resolution No. 16-117, adopted on July 20, 2016 (the "CDLAC Conditions"), as they may be modified or amended from time to time, which conditions are incorporated herein by reference and made a part hereof and are attached hereto as part of Exhibit G. Following completion of the construction of the Project, the Borrower will prepare and submit to the City, on each February 1, until the end of the term of the CDLAC

Conditions, a Certificate of CDLAC Program Compliance, in substantially the form attached hereto as Exhibit E, executed by an Authorized Borrower Representative. Notwithstanding anything to the contrary herein, the provisions of this Section 7(d) shall remain effective for the period specified in the CDLAC Conditions, unless this Regulatory Agreement shall terminate as otherwise provided in Section 14 hereof.

(e) For the Qualified Project Period, the Borrower will comply with the provisions of the Unruh Civil Rights Act, including, without limitation, Sections 51.2 and as applicable, 51.3 of the California Civil Code, as amended, and Sections 45.50 et seq. of the Los Angeles Municipal Code, as amended.

(f) The lease to be utilized by the Borrower in renting any residential units in the Project to Low Income Tenants shall provide for termination of the lease and consent by such person to immediate eviction, subject to applicable provisions of California law, for any tenant who fails to qualify as a Low Income Tenant and who has made a material misrepresentation on the Income Certification as to such tenant's qualification as a Low Income Tenant. All such leases shall contain clauses, among others, wherein each individual lessee (i) certifies the accuracy of the statements made in the Income Certification and (ii) agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of the lessee's tenancy; that the lessee will comply promptly with all requests for information with respect thereto from the Borrower or the City; and that the lessee's failure to provide accurate information in the Income Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the lessee's tenancy and shall be a default thereunder. Additionally, such lease shall contain provisions informing any tenant of the possibility of rental payment increases in accordance with the terms of this Regulatory Agreement.

(g) All Income Certifications will be maintained on file at the Project or, with the prior written consent of the City, at the principal place of business of the Borrower or the property manager of the Project, so long as this Regulatory Agreement is in effect and for five years thereafter with respect to each Low Income Tenant who occupied a residential unit in the Project during the Qualified Project Period.

(h) 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 Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants.

(i) The Borrower shall submit to the City (i) at the times specified in Sections 4(d) and (f) herein, a Certificate of Continuing Program Compliance, which shall include the information called for therein, including occupancy records for all units in the Project, and (ii) within 15 days after receipt of a written request, any other information or completed forms requested by the City, in each case, in order to comply with reporting requirements of the Internal Revenue Service or the State of California, including, without limitation, information necessary for the City to file any periodic



report, or any other information concerning the Project as the City may reasonably request.

(j) All workers performing construction or rehabilitation work for the Project employed by the Borrower or by any contractor or subcontractor shall be compensated in an amount no less than the greater of (i) the general prevailing rate of per diem wages (“Prevailing Wages”) as determined pursuant to Labor Code Sections 1770-1781 and implementing regulations of the Department of Industrial Relations, (ii) the general prevailing rate of per diem wages as determined by the U.S. Labor Department pursuant to the Davis-Bacon Act under 40 U.S.C.S. 3141–3148 and implementing regulations (“Davis-Bacon Wages”), if applicable; and (iii) the “Living Wage” as determined by the policies and procedures of the City of Los Angeles. The Borrower shall comply with all reporting and recordkeeping requirements of the City’s prevailing wage policy. The Borrower shall, and shall cause the contractors and subcontractors to, submit data and documents related to Prevailing Wages or Davis-Bacon Wages, if applicable, using the LCP Tracker or comparable HCIDLA-approved program. The fee for the LCP Tracker, or comparable HCIDLA-approved program, will be in the amount equal to Three One-Hundredths Percent (0.03%) of the total construction cost, which fee shall be paid in full to the City within 30 days of execution of this Agreement.

(k) The City may, at its option and at its expense, at any time appoint an administrator to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with any request by the City to deliver to such administrator, in addition to or instead of the City, any reports, notices or other documents required to be delivered pursuant hereto, and upon reasonable notice to the Borrower to make the Project and the books and records with respect thereto available for inspection during regular business hours by such administrator as an agent of the City.

(l) If upon the annual certification or recertification required in Section 4(d) a tenant’s Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family size, all rental limits herein previously applicable to the unit occupied for such tenant shall continue to apply until the next available unit is rented to a tenant who is a Low Income Tenant.

(m) There are four points in time when the Borrower is required to give written notice to all tenants of Low Income Units:

(i) Upon initial move-in/lease execution, Borrower shall give written notice to all tenants of Low Income Units, of the duration of the rent restrictions under this Regulatory Agreement. Borrower must maintain, in its files, a copy of each notice containing each tenant’s signed acknowledgement of the notice required hereunder. The notice shall, at the least, contain language that the rent restrictions under this Regulatory Agreement shall be for a term equal to the later of the expiration of: (a) the Qualified Project Period; or (b) the CDLAC Conditions. Upon termination of the rent restriction period under this Regulatory

Agreement, rents may be set at a market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

(ii) Twelve months prior to the termination of the rent restriction period under this Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels. The Borrower must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, and the Los Angeles Department of Housing and Community Development.

(iii) Six months prior to the termination of the rent restriction period under this Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels. Borrower must also give written notice, pursuant to California Government Code Section 65863.10, to the Mayor of the City of Los Angeles, the Housing Authority of the City of Los Angeles, and the Los Angeles Department of Housing and Community Development.

(iv) Ninety days prior to the termination of the rent restriction period under this Regulatory Agreement, Borrower must again give written notice to its tenants of the termination of the restrictions on the Low Income Units before their rents may be raised to market rent levels.

Pursuant to California Government Code 65863.11, prior or concurrent with the twelve month notice referenced above in (ii), the Borrower must provide notice of the opportunity to offer to purchase the assisted housing development to all qualified entities on the list maintained by the California Department of Housing and Community Development as well as to those qualified entities that contact the Borrower directly. The notice shall conform to the requirements of California Government Code 65863.11(h) and shall be sent to the entities by registered or certified, return receipt requested. The Borrower shall also post a copy of the notice in a conspicuous place in the common area of the development.

(n) The Borrower shall, on the Closing Date, pay to the City its initial and ongoing fees with respect to the issuance of the Bond as follows. The Borrower shall pay the City an initial fee immediately upon issuance of the Bond equal to \$[ ] (.25% of the aggregate maximum combined principal amount of the Bond and the Issuer's Multifamily Housing Revenue Bond (Jordan Downs Phase 1A Apartments) Taxable Series 2016P-2 (the "Taxable Bond") issuable under the Indenture (\$[ ])). In addition, the Borrower shall, as compensation for the City's monitoring of the provisions of this Regulatory Agreement, pay to the City, semiannually in arrears, prorated for the initial payment, on the first day of each [ ] and [ ] commencing [ ] 1, 2017: (i) for the period from the date of issuance of the Bond through the later of: (i) the end of the Qualified Project Period; or (ii) termination of the CDLAC Conditions, prorated for the initial and any

subsequent partial period), a semiannual amount equal to the greater of: (A) during the period from the Closing Date to the Conversion Date, \$1,250 or one-half of 0.125% of the maximum principal amount of Bond issuable under the Indenture (\$[28,000,000]); and (B) from and after the Conversion Date \$1,250 or one half of 0.125% of the outstanding principal amount of the Bond immediately after the Conversion Date; or in either case, such lesser amount as shall be necessary in the opinion of Bond Counsel to preserve the exemption of interest on the Bond from gross income for federal income tax purposes. Throughout the term of this Agreement, the Trustee, or the City, as applicable, shall provide an invoice to the Borrower at least 30 days prior to the due date of each such payment (and if applicable, a copy of which shall be provided to the City) and shall collect such payments from the Borrower and immediately remit such funds to the City. In the event of any prepayment of the Bond in whole, prior to the end of the later of: (i) the end of the Qualified Project Period; or (ii) termination of the CDLAC Conditions, the Borrower, at its election, shall either: (A) pay to the City, on or before such payment, an amount equal to the present value of the remaining City fees payable hereunder, as calculated by the City, using a discount rate equal to the yield on the date of prepayment on the United States treasury security maturing on the date nearest the end of the later of: (1) the Qualified Project Period or (2) the termination date of the CDLAC Conditions, or such lesser amount as shall be necessary in the opinion of Bond Counsel to preserve the exemption of interest on the Bond from gross income for federal income tax purposes; or (B) pay directly to the City on an annual basis, in arrears on each [\_\_\_\_\_] 1, the annual fee described above. The Borrower shall not be required to pay the fee described in the preceding sentence if the Bond is prepaid in whole under circumstances which permit termination of this Regulatory Agreement pursuant to Section 14 hereof.

(o) The Borrower shall pay to the City a processing fee equal to: (i) prior to the Conversion Date the greater of \$5,000 or 0.125% of the combined maximum principal amount of the Bond and the Taxable Bond issuable under the Indenture; and; (ii) following the Conversion Date the greater of \$5,000 or 0.125% of the maximum principal amount of the Bond, plus any expenses incurred by the City, including, without limitation, bond counsel, city attorney and financial advisor fees, as a condition to the consideration and receipt of any consent, approval, amendment, transfer or waiver requested of the City with respect to the Project, the Project Site or the Bond. The City shall provide an invoice directly to the Borrower for such amounts.

(p) The Borrower shall pay the City its then-current fees in connection with any consent, approval, transfer, amendment or waiver requested of the City, together with any expenses incurred by the City in connection therewith.

(q) The Trustee shall report to the City in writing semiannually, within 10 days of each June 30 and December 31, the principal amount of the Bond outstanding as of such June 30 or December 31, as appropriate.

(r) The Borrower shall promptly provide the City such information with respect to the Project or the Bond as the City shall from time to time request.

(s) The Borrower shall include the City as an additional insured on all liability insurance policies relating to the Borrower or the Project.

(t) The Borrower shall not rent any Low Income Unit to: (i) any individual who (A) holds an ownership interest in the Borrower, any general partner or member (or owner of such general partner or member) of the Borrower, (B) is an officer, board member, employee or agent of, or consultant to, the Borrower or any general partner or member thereof or owner of such general partner or member or (C) is a developer of the Project (collectively, an “Owner/Developer”); (ii) any Immediate Family Member of an Owner/Developer (“Immediate Family Members” consists of: (A) spouses; (B) children, (C) parents and grandparents, (D) siblings, (E) in-laws, including brother/sister-in-law and mother/father-in-law and son/daughter-in-law or (F) significant other or domestic partner); or (iii) any elected official or his or her spouse/partner, who participated in the deliberative process, vote or consideration of legislative action regarding the issuance of the Bond or other loan in support of the Project, unless such person otherwise qualifies for tenancy under this Agreement and such tenancy is approved in writing by the City.

(u) The Borrower shall include a certification in each tenant application that the applicant is not an Owner/Developer, an elected official who participated in the issuance of the Bond or an Immediate Family Member thereof. The Borrower recognizes and agrees that the penalty for violation of the above covenant shall be a fine of \$5,000 per violation/ per unit.

(v) Neither the Borrower nor any general partner thereof shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify the City as the source of the financing provided for the Project, without the prior written approval of the City (provided that nothing herein shall prevent the Borrower or any general partner thereof from identifying the City as the source of such financing to the extent that the Borrower or any general partner thereof is required to do so by disclosure requirements applicable to publicly held companies).

(w) The Borrower shall comply with all applicable requirements of the Ground Lease and shall provide prompt written notice to the City and the Trustee of any default thereunder.

Any of the foregoing requirements of the City (except (d) above, which may be expressly waived by CDLAC) may be expressly waived by the City in writing in the City’s sole discretion, but (i) no waiver by the City of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement, including particularly but without limitation the provisions of Sections 2 through 6 hereof, except to the extent the City has received an opinion of Bond Counsel that any such provision is not required by the Act or the Law and may be waived without adversely affecting the exclusion from gross income of interest on the Bond for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the City and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the

Bond to become includable in gross income for federal income tax purposes, if such opinion is accompanied by a copy of a ruling from the Internal Revenue Service to the same effect, or to the effect that compliance with such requirement would be in conflict with the Act or the Law.

**Section 8. Modification of Covenants.** The Borrower, the Trustee and the City hereby agree as follows:

(a) To the extent any amendments to the Law, the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the City, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement in order to maintain the Tax-exempt status of interest on the Bond, this Regulatory Agreement shall be deemed to be automatically amended, without the consent or approval of any other person, to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as shall be necessary to document such automatic amendment hereof.

(b) To the extent that the Law, the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the City, the Trustee 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 City, the Trustee and the Borrower and approved by the written opinion of Bond Counsel to the effect that such amendment is permitted by the Law and the Act and will not affect the Tax-exempt status of interest on the Bond. The City shall be under no obligation to agree to any such amendment, it being understood that each of the requirements of this Regulatory Agreement is a specific requirement of the City, whether or not required by California or federal law.

(c) The Borrower, the City and, if applicable, the Trustee shall execute, deliver and, if applicable, file or record any and all documents and instruments necessary to effectuate the intent of this Section 8, and the City hereby appoints the Trustee as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file or record on behalf of the City, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the City defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the City, the Trustee shall take no action under this subsection (c) without first notifying the City and without first providing the City an opportunity to comply with the requirements of this Section 8. Nothing in this Section 8(c) shall be construed to allow the Trustee to execute an amendment to this Regulatory Agreement on behalf of the City.

**Section 9. Indemnification.** The Borrower shall defend, indemnify and hold harmless the City and the Trustee and the respective officers, members, supervisors, directors, officials and employees, counsel, attorneys and agents, past present and future of each of them (collectively, the "Indemnified Parties") against all loss, costs, damages, expenses, suits, judgments, actions and liabilities of whatever nature (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to

discharge judgments) directly or indirectly resulting from or arising out of or related to (a) the design, construction, installation, operation, use, occupancy, maintenance, financing or ownership of the Project (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto), (b) any written statements or representations with respect to the Borrower, the Project or the Bond made or given to the City or the Trustee, or any underwriters or purchaser of the Bond, or any tenants or applicants for tenancy in the Project or any other person, by the Borrower, or any Authorized Borrower Representative, including, but not limited to, statements or representations of facts, financial information or limited partnership affairs, (c) the Bond or the tax-exempt status of interest on the Bond or (d) the failure or alleged failure of any person or entity (including Borrower, its contractor or subcontractors) to pay the general prevailing rate of per diem wages as determined pursuant to Labor Code Sections 1770-1781 and implementing regulations of the Department of Industrial Relations in connection with the construction of the improvements or any other work undertaken or in connection with the Project; or (e) any actual or alleged violation of any Hazardous Materials Law or with respect to the presence of Hazardous Materials on or under the Project or in any of improvements or on or under any property of the Borrower that is adjacent to the Project (whether before or after the date of this Agreement and whether or not Borrower knew of the same); provided, however, that this provision shall not require the Borrower to indemnify the Indemnified Parties from any claims, costs, fees, expenses or liabilities arising from the fraud or willful misconduct or, in the case of the Trustee, its negligence. The Borrower also shall pay and discharge and shall indemnify and hold harmless the City and the Trustee from (i) any lien or charge upon payments by the Borrower to the City and the Trustee hereunder or under the Bond Documents and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges are sought to be imposed, the City or the Trustee shall give prompt notice to the Borrower and the Borrower shall, as provided in the following paragraph, have the right to assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, provided that the City and the Trustee shall have the right to review and approve or disapprove any such compromise or settlement. In addition thereto, the Borrower will pay upon demand all of the reasonable fees and expenses paid or incurred by the Trustee and/or the City in enforcing the provisions hereof against the Borrower. The Borrower shall also pay the City its standard fees and reimburse the City for its expenses in connection with any consent, approval, amendment, waiver or other action taken at the request or for the benefit of the Borrower in connection with this Regulatory Agreement, the Bond or any other document or agreement relating thereto. In the event of any audit or inquiry regarding the Bond or the Project from any governmental entity, the Borrower shall, at the election of the City, be responsible for responding to and resolving such audit or inquiry at the expense of the Borrower.

Promptly after receipt by any party entitled to indemnification under this Section 9 of notice of the commencement of any suit, action or proceeding, such Indemnified Party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 9, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to any Indemnified Party otherwise than under this Section 9 or from any liability under this Section 9 unless the failure to provide notice prejudices the defense of such suit, action or proceeding. In case any such action is brought against any Indemnified Party, and it notifies the

indemnifying party, the indemnifying party shall be entitled to participate in, and to the extent that it may elect by written notice delivered to the Indemnified Party within five Business Days after receiving the aforesaid notice from such Indemnified Party (but shall not be required) to assume, the defense thereof, with counsel reasonably satisfactory to such Indemnified Party; provided, however, if the defendants in any such action include both the Indemnified Party and the indemnifying party and the Indemnified Party shall have reasonably concluded that there are legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the indemnifying party, the Indemnified Party or parties shall have the right to select separate counsel to assert such legal defenses and otherwise to participate in the defense of such action on behalf of such Indemnified Party or parties. Upon the indemnifying party's receipt of notice from the Indemnified Party of such Indemnified Party's election so to assume the defense of such action and selection by the Indemnified Party of counsel, the indemnifying party shall not be liable to such Indemnified Party under this Section 9 for any attorneys' fees or expenses subsequently incurred by such Indemnified Party for the engagement of separate counsel in connection with defense thereof unless (i) the Indemnified Party shall have employed separate counsel in connection with the assertion of legal defenses in accordance with the proviso to the next preceding sentence, or (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party or shall not have employed such counsel within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized the employment of separate counsel to represent the Indemnified Party at the expense of the indemnifying party. Notwithstanding the foregoing, the Trustee shall not be indemnified for income tax, franchise tax or similar tax liability relating to the Trustee's own income and operations.

**Section 10. Consideration.** The City has issued the Bond to provide funds to finance the acquisition, construction and equipping of the Project, all for the purpose, among others, of inducing the Borrower to acquire and construct the Project. In consideration of the issuance of the Bond by the City, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

**Section 11. Reliance.** The City 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 Bond and in the exemption from federal income taxation and California personal income taxation of the interest on the Bond. In performing their duties and obligations hereunder, the City and the Trustee 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 City and the Trustee may consult with counsel, and the written opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City or the Trustee 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 Trustee may, but 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 Trustee by the Borrower or the City with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

**Section 12. Project in the City.** The Borrower hereby represents and warrants that the Project will be located entirely within the City.

**Section 13. Sale or Transfer of the Project; Equity Interests.** The Borrower hereby covenants and agrees not to voluntarily (which term shall not be interpreted to include a foreclosure of any security for the Loan, the granting by the Borrower of a deed-in-lieu of foreclosure, or any other comparable conversion of the Loan) sell, transfer or otherwise dispose of the Project, or any portion thereof (other than for individual tenant use as contemplated hereunder), equity interests in the Borrower aggregating more than 50% of the equity interest in the Borrower, or any general partner interests in the Borrower, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld by the City and shall be given by the City if (a) the Borrower is not in default hereunder or under the Loan Agreement; (b) the purchaser or assignee is not in default under any obligations it may have to the City and is not the subject of any legal or enforcement actions by the City, and the purchaser or assignee certifies that the continued operation of the Project will comply with the provisions of this Regulatory Agreement; (c) evidence reasonably satisfactory to the City is presented to establish that the purchaser or assignee is willing to comply and capable of complying with the terms and conditions of this Regulatory Agreement; (d) either (i) evidence satisfactory to the City is presented to establish that the purchaser or assignee has at least three years' experience in the ownership, operation and management of rental housing projects, without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects or (ii) the purchaser or assignee agrees to retain a property management firm which the City determines has the experience and record described in subclause (i) above or (iii) the City determines that it has no reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee and relating to the Project; (e) the City and Trustee shall have received (i) with respect to any transfer of the Project, reasonable evidence satisfactory to the City that the Borrower's purchaser or transferee has assumed in writing and in full, the Borrower's duties and obligations under this Regulatory Agreement and the Loan Agreement, (ii) with respect to any transfer of the Project to a new Borrower, an opinion of counsel to the transferee that the transferee has duly assumed the obligations of the Borrower under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee, (iii) unless waived by the City, an opinion of Bond Counsel that such transfer will not adversely affect the Tax-exempt nature of the interest on the Bond, (iv) from the Borrower, a Certificate of Continuing Program Compliance (and a "bring-down" certificate, if necessary) current as of the date of transfer and (v) evidence satisfactory to the City that the purchaser or assignee does not have pending against it, nor does it have a history of, building or fire code violations as identified by City, the State of California or federal regulatory agencies; (f) the purchaser or assignee complies with the provisions of the Los Angeles Administrative Code Section 10.8.4 Affirmative Action Program Provisions; (g) the Borrower or transferee pays all costs of the transfer of title, including, but not limited to, the cost of meeting the conditions specified in this Section 13; and (h) such other conditions are met as the City may reasonably impose to assure compliance by the Project with the requirements of this Regulatory Agreement. It is hereby expressly stipulated and agreed that, except for any such sale, transfer or disposition agreed to by the City in a separate writing, any sale, transfer or other disposition of the Project in violation of this Section 13 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. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder, but only to the extent such obligations have been assumed by the transferee of the Project, without the necessity of further documentation. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 13.

The Borrower acknowledges and recognizes that in addition to the above requirements the consent of CDLAC, in the manner and to the extent as may at the time be required by CDLAC, among other parties, may be required in connection with any transfer of the Project. In addition to the above requirements, the Borrower shall obtain the consent of CDLAC to any transfer of the Project in the manner and to the extent as may at the time be required by CDLAC.

Notwithstanding the foregoing, if the Trustee acquires title to the Project by foreclosure or deed in lieu of foreclosure, no consent of the City shall be required to such transfer under this Regulatory Agreement and no other conditions shall be required to be satisfied. However, if the Trustee acquires title to the Project by foreclosure or deed in lieu of foreclosure and this Regulatory Agreement has not been terminated pursuant to Section 14 below, consent of the City and delivery of items (a) through (h) above shall be required for any transfer of the Project subsequent to the Trustee's acquisition of the Project by foreclosure or deed in lieu of foreclosure.

Notwithstanding anything to the contrary contained herein, the interest of Borrower's limited partners shall be transferable under this Regulatory Agreement to any affiliate of the limited partners of Borrower, without the consent of the City and/or Trustee but with prior written notice thereto.

**Section 14. Term.** This Regulatory Agreement and all and each of the provisions hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section 14 shall terminate in its entirety at the end of the Qualified Project Period (or in the case of Section 7(d) hereof at the times set forth in CDLAC Resolution No. 16-117, which imposes restrictions for a term of at least 55 years), it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bond, discharge of the Loan and termination of the Indenture and the Loan Agreement.

Notwithstanding the foregoing, the provisions of Section 9 hereof shall, in the case of the Trustee, survive the term of this Regulatory Agreement or the replacement of the Trustee, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Trustee's tenure as Trustee under the Indenture, and shall, in the case of the City, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement and all the requirements set forth herein (except Section 9 as aforesaid) shall terminate and be of no further force and effect in the event of (a) 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 which prevents the City or the

Trustee from enforcing the provisions hereof, or (b) condemnation, foreclosure, delivery of a deed in lieu of foreclosure or a similar event, but only if, within a reasonable period thereafter, either the portion of the Bond attributable to the affected portion of the Project is retired or amounts received as a consequence of such event are used to provide a project which meets the requirements of the Code set forth in Sections 2 through 6 of this Regulatory Agreement and provided that, in either case, an opinion of Bond Counsel (unless waived by the City) is delivered to the Trustee to the effect that the exclusion from gross income for federal income tax purposes of interest on the Bond will not be adversely affected thereby. The provisions of the preceding sentence shall cease to apply and the requirements referred to therein shall be reinstated if, at any time during the Qualified Project Period after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any related party (within the meaning of Section 1.150-1(b) of the Regulations) obtains an ownership interest in the Project for 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 related party as described above will obtain an ownership interest in the Project for tax purposes.

Upon the termination 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 15. Covenants To Run With the Land.** The Borrower hereby subjects the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City 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 title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. The City and, if necessary, the Trustee, agree to execute a quitclaim deed or other documents required to remove this Regulatory Agreement from title after the covenants, agreements and restrictions herein have expired. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

No breach of any of the provisions of this Regulatory Agreement shall impair, defeat or render invalid the lien of any security instrument, deed of trust or like encumbrance made in good faith and for value encumbering the Project or any portion thereof.

**Section 16. Burden and Benefit.** The City and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal leasehold interest in the Project is rendered less valuable thereby. The City and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the

Bond was issued. Notwithstanding the foregoing or any other provision of this Regulatory Agreement, no person, other than the parties hereto, shall have any rights of enforcement of this Regulatory Agreement.

**Section 17. Uniformity; Common Plan.** The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Project Site.

**Section 18. 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 60 days after notice thereof shall have been given by the City to the Borrower, then the City shall declare an “Event of Default” to have occurred hereunder; provided, however, that if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) in the opinion of Bond Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-exempt status of interest on the Bond. The Trustee hereby consents to any correction of the default by the City on behalf of the Borrower. The City hereby consents to any correction of a default on the part of the Borrower hereunder made by the Borrower’s limited partners on behalf of the Borrower within the time periods provided in this Section. Copies of any notices sent to the Borrower hereunder shall simultaneously be sent to Borrower’s limited partners at the address set forth in Section 23.

Following the declaration of an Event of Default hereunder, the Trustee, as directed by the City and subject to the provisions of the Indenture relative to the Trustee’s duty to exercise remedies generally, or the City may, at its option, take any one or more of the following steps:

- (a) 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 City or the Trustee hereunder;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project; and
- (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

During the Qualified Project Period, the Borrower hereby grants to the City the option, upon either (a) the expiration of 60 days after the giving of the notice to the Borrower referred to in the first paragraph of this Section 18 of the Borrower’s default under this Regulatory Agreement or (b) the vacancy of a Low Income Unit for more than six months and the submission by the City to the Borrower during such six-month or longer period of at least five proposed tenants which meet the qualifications of Low Income Tenants and the qualifications of a reasonable landlord, to lease up to [40%] of the units in the Project for a rental of \$1.00 per unit

per year for the sole purpose of subleasing such units to Low Income Tenants for a period of not less than six months, but only to the extent necessary to comply with the provisions of Sections 2 through 7 of this Regulatory Agreement and to insure full occupancy of the Low Income Units. The option granted in the preceding sentence shall be effective only if the Borrower or the Trustee has not instituted corrective action before the end of such 60-day period referenced in (a) above, or the Borrower has not rented the unit during the six-month or longer period referenced in (b) above, to a qualified Low Income Tenant. The option and any leases to the City under this provision shall terminate with respect to each default upon the achievement, by the Borrower, the Trustee or the City, of compliance with the requirements of Section 2 through 7 hereof, and any subleases entered into pursuant to the City's option shall be deemed to be leases from the Borrower. The City shall make diligent effort, but shall not be required, to rent Low Income Units to Low Income Tenants at the highest rents practicable, subject to the limits of Sections 5, 6 and 7 hereof. Any rental paid under any such sublease shall be paid to the Borrower after the City has been reimbursed for any reasonable expenses incurred in connection with such sublease, provided that, if the Borrower is in default under the Loan Agreement, such rental shall be paid to the Trustee for credit against payments due under the Loan Agreement. The Trustee shall have the right, as directed by the City, in accordance with this Section 18 and the provisions of the Indenture, to exercise any or all of the rights or remedies of the City hereunder, provided that prior to taking any such action the Trustee shall give the City written notice of its intended action. All reasonable fees, costs and expenses of the City and the Trustee incurred in taking any action pursuant to this Section 18 shall be the sole responsibility of the Borrower.

After the Indenture has been discharged, the City 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 Trustee.

The obligations of the Borrower hereunder are not secured by a lien on the Project and the Loan shall not be accelerated as a result of any default hereunder. The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the City may 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 default by the Borrower hereunder.

The occurrence of a Determination of Taxability shall not, in and of itself, constitute a default hereunder.

**Section 19. The Trustee.** The Trustee shall act as specifically provided herein and in the Indenture. The Trustee is entering into this Regulatory Agreement solely in its capacity as trustee under the Indenture, and the duties, powers, rights and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Indenture.

The City shall be responsible for the monitoring and verifying of compliance by the Borrower with the terms of this Regulatory Agreement. The Trustee may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by the City, or unless it has actual knowledge of noncompliance.

After the date on which no principal of the Bond remains outstanding as provided in the Indenture, the Trustee shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Trustee in this Regulatory Agreement shall be deemed references to the City.

**Section 20. Recording and Filing.** The Borrower shall cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County of Los Angeles and in such other places as the City or the Trustee may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement shall be recorded in the grantor-grantee index to the name of the Borrower as grantor and the City as grantee.

**Section 21. Governing Law.** This Regulatory Agreement shall be governed by the laws of the State of California. The Trustee’s rights, duties and obligations hereunder are governed in their entirety by the terms and provisions of the Indenture.

**Section 22. Amendments.** This Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Los Angeles, California, and only upon receipt by the City of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-exempt status of interest on the Bond and is not contrary to the provisions of the Law or the Act and with the written consent of the Trustee.

The City, the Trustee and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel (subject to the approval of the City Attorney of the City), in order that interest on the Bond remains Tax-exempt. The party or parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel and the City Attorney of the City and a request that such Bond Counsel render to the City an opinion as to the effect of such proposed amendment upon the Tax-exempt status of interest on the Bond.

**Section 23. Notices.** Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

If to City:                                   City of Los Angeles  
c/o Los Angeles Housing and Community Investment Department  
1200 West 7<sup>th</sup> Street, 8th Floor  
Los Angeles, CA 90017  
Attention: Supervisor, Affordable Housing Bond Program  
Facsimile: (213) 808-8918

with a copy to:                                   Los Angeles Housing and Community Investment Department  
P.O. Box 532729  
Los Angeles, CA 90053-2729  
Attention: Supervisor, Affordable Housing Bond Program

If to Borrower: Jordan Downs 1A, LP  
c/o Bridge Housing Corporation  
600 California Street, Suite 900  
San Francisco, CA 94108  
Attention: Rebecca Hlebasko

with a copy to: Goldfarb & Lipman LLP  
1300 Clay Street  
Oakland, CA 94612  
Attn: Heather Gould  
Facsimile: (510) 836-1035

with a copy to: Bank of America, N.A.  
Mail Code: CA-G-503-05-09  
5 Park Plaza, 5<sup>th</sup> Floor  
Irvine, CA 92614  
Attention Joseph Siu  
Facsimile No.: (884) 553-8698

Bank of America CDC Special Holding Company, Inc.  
One Federal Street  
Mail Code: MA5-503-04-01  
Attention: Sharon Strong  
Facsimile No.: (617) 346-2724

with a copy to : Housing Authority of the City of Los Angeles  
2600 Wilshire Boulevard  
Los Angeles, CA 90057  
Attention: Chief Operating Officer

If to the Trustee: U.S. Bank National Association  
633 West 5<sup>th</sup> Street, 24<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attention: Global Corporate Trust Services  
Ref: LA MF (Jordan Downs 2016P)  
Telephone: (213) 615-6024  
Facsimile: (213) 615-6199

Notice shall be deemed given three Business Days after the date of mailing.

A duplicate copy of each notice, certificate or other communication given hereunder by any party hereto to another party hereto shall also be given to all of the parties specified above. Failure to provide any such duplicate notice pursuant to the foregoing sentence, or any defect in any such duplicate notice so provided shall not constitute a default hereunder. All other documents required to be submitted to any of the foregoing parties shall also be submitted to such party at its address set forth above. Any of the foregoing parties may, by notice given

hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

**Section 24. Severability.** If any provision of this Regulatory Agreement or if the applicability of any such provision shall be invalid, illegal or unenforceable, the validity, legality, enforceability, or the applicability with respect to 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. Nondiscrimination and Affirmative Action.** The Trustee and 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 City of Los Angeles. The Trustee and 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 Trustee and 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 C.F.R. Part 60). The Trustee and 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 Trustee and 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 and Trustee shall also comply with all rules, regulations, and policies of the City of Los Angeles' Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by the City. Any subcontract entered into by the Borrower or Trustee relating to this Regulatory 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 Regulatory 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 27. Business Tax Registration Certificate.** Subject to any exemption available to it, the Trustee and Borrower each represent that it will obtain and hold the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Regulatory Agreement, the Trustee and the Borrower shall maintain, or obtain as necessary, all

such Business Tax Registration Certificates required of it under said Ordinance and shall not allow any such Business Tax Registration Certificate to be revoked or suspended.

**Section 28. Financial Obligations Personal to Borrower.** The City acknowledges that the Project shall be encumbered by the Loan Documents. Notwithstanding any provisions of this Regulatory Agreement to the contrary, all obligations of the Borrower under this Regulatory Agreement for the payment of money and all claims for damages against the Borrower occasioned by breach or alleged breach by the Borrower of its obligations under this Regulatory Agreement, including indemnification obligations, shall not be a lien on the Project and no Person shall have the right to enforce such obligations other than directly against the Borrower as provided in Section 18 of this Regulatory Agreement, except that the City shall have the right at all times to enforce the rights contained in the third paragraph of Section 18 hereof. No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligations of the Borrower under this Regulatory Agreement on the part of any prior Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations are personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned thereby even after such Person ceases to be the Borrower. Each Borrower shall comply with and be fully liable for all obligations of an “owner” hereunder during its period of ownership.

**Section 29. Third-party Beneficiaries.** The CDLAC is intended to be and is a third-party beneficiary of this Regulatory Agreement, and the CDLAC shall have the right (but not the obligation) to enforce, separately or jointly with the City and/or the Trustee or to cause the City or the Trustee to enforce, the provisions of Section 7(d) of this Regulatory Agreement and to pursue an action for specific performance of such provisions or other available remedy at law or in equity in accordance with Section 18 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the Bondholder and shall otherwise be subject to the terms, conditions and limitations applicable to the enforcement of remedies under this Regulatory Agreement.

**Section 30. Child Support Assignment Orders.** This Regulatory Agreement is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, each of the Borrower and the Trustee 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 the 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 this Regulatory Agreement. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of the Borrower or the Trustee 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 the Borrower or the Trustee to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Borrower or the Trustee, as appropriate, under the terms of this Regulatory Agreement, subjecting (i) the 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



ninety (90) days after notice of such failure to the Borrower or the Trustee by the City. Any subcontract entered into by the Borrower or the Trustee relating to this Regulatory 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 the Borrower or the Trustee to obtain compliance of its subcontractors shall constitute a default by the Borrower or the Trustee, as appropriate, under the terms of this Regulatory Agreement, subjecting (A) the Borrower to the remedies provided herein and (B) the Trustee to termination under the Indenture where such failure shall continue for more than ninety (90) days after notice of such failure to the Borrower or the Trustee by the City.

The Borrower and the Trustee shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. The Borrower and the Trustee each assures 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 the Public Contract Code Section 7110.

**Section 31. 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 I). 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 the ADA, the ADAAG, Section 504, the UFAS, the FHA (each as defined in Exhibit I) and all subsequent amendments. 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 Regulatory Agreement and the Project, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. The Borrower hereby agrees to observe all of the covenants contained in Exhibit I to this Regulatory Agreement as if contained herein.

**Section 32. Slavery Disclosure Ordinance.** This Regulatory Agreement is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as it may be amended from time to time. The Borrower hereby agrees to execute and deliver a certificate in the form attached hereto as Exhibit H (or such other form as is required by the City) certifying that it has complied with the applicable provisions of this Ordinance. The Borrower acknowledges that failure to fully and accurately complete the affidavit may result in a default under this Regulatory Agreement.

**Section 33. General Provisions.** Borrower, Trustee and Issuer acknowledge that the Restrictive Covenants and any obligations of Borrower hereunder, are subject and subordinate to: (i) the RAD Agreement and all applicable laws and regulations applicable to HUD's Rental Assistance Demonstration program ("RAD Program"), including, but not limited to, those set forth in PIH 2012-13 and any additional guidance which HUD may issue related to the RAD Program; and (ii) all applicable FHA policies, rules and regulations.

IN WITNESS WHEREOF, the City, the Trustee and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**CITY OF LOS ANGELES**, as City

By Los Angeles Housing and Community  
Investment Department

By \_\_\_\_\_  
Helmi Hisserich  
Authorized Officer

Approved as to form:

CITY OF LOS ANGELES  
MICHAEL N. FEUER, City Attorney

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

[Signature Page to *Jordan Downs* Regulatory Agreement]

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

By \_\_\_\_\_  
Name: Julia Hommel  
Title: Vice President

[Signature Page to *Jordan Downs* Regulatory Agreement]

JORDAN DOWNS 1A, LP, a California limited partnership

By: JD Housing 1A, LLC, a California limited liability company, its general partner

By: BRIDGE Housing Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: \_\_\_\_\_  
Whitney Weller, Senior Vice President

[Signature Page to *Jordan Downs* Regulatory Agreement]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

State of California )

County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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State of California )

County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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State of California )

County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

State of California )

County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ [SEAL]



**EXHIBIT A**

**DESCRIPTION OF PROJECT SITE**

A LEASEHOLD INTEREST IN ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

[TO BE PROVIDED]

Assessor's Parcel Number: \_\_\_\_\_

**EXHIBIT B**

**FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

FOR THE [MONTH/QUARTER] ENDING \_\_\_\_\_

City of Los Angeles  
Multifamily Housing Revenue Bond  
(Jordan Downs Phase 1A Apartments)  
Series 2016P

The undersigned, being the Authorized Borrower Representative of Jordan Downs 1A, LP, a California limited partnership (the "Borrower"), has read and is thoroughly familiar with the provisions of the various loan documents associated with the Borrower's participation in the multifamily housing program of the City of Los Angeles (the "City"), including, without limitation, the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of [\_\_\_\_\_] 1, 2016 (the "Regulatory Agreement"), among the Borrower, the City and U.S. Bank National Association, as Trustee relative to the property located at 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002.

As of the date of this Certificate, the following percentages of completed residential units in the Project (as such term is defined in the Regulatory Agreement) (i) are occupied by Low Income Tenants (as such term is defined in the Regulatory Agreement) or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Low Income Tenant vacated such unit, as indicated:

Occupied by Low Income Tenants: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_ and  
size

Held vacant for occupancy continuously  
since last occupied by Low Income Tenant: \_\_\_\_\_%  
Unit Nos. \_\_\_\_\_ and  
size

Vacant Units: \_\_\_\_\_%

Low Income Tenants who commenced  
Occupancy of units during the  
Preceding [month/quarter]: Unit Nos. \_\_\_\_

Attached is a separate sheet (the "Occupancy Summary") listing, among other items, the following information for each unit in the Project: the number of each unit, the occupants of each unit and the size, in square feet, of each unit. It also indicates which units are occupied by Low Income Tenants and which units became Low Income Units during the preceding [month/quarter]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Borrower during such [month/quarter] and of the Borrower's performance under the Loan Agreement has been made under the supervision of the undersigned; (2) to the best of the knowledge of the undersigned, based on the review described in clause (1) hereof, the Borrower is not in default under any of the terms and provisions of the above documents [OR DESCRIBE THE NATURE OF ANY DEFAULT IN DETAIL AND SET FORTH THE MEASURES BEING TAKEN TO REMEDY SUCH DEFAULT]; and (3) to the knowledge of the Borrower, no Determination of Taxability (as such term is defined in the Regulatory Agreement) has occurred [OR, IF A DETERMINATION OF TAXABILITY HAS OCCURRED, SET FORTH ALL MATERIAL FACTS RELATING THERETO].

JORDAN DOWNS 1A, LP, a California limited partnership

By: JD Housing 1A, LLC, a California limited liability company, its general partner

By: BRIDGE Housing Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: \_\_\_\_\_  
Whitney Weller, Senior Vice President

[Signature Page to *Jordan Downs* Certificate of Program Compliance]

**EXHIBIT C**

**FORM OF INCOME CERTIFICATION**

*NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development (“HUD”) Regulations (24 C.F.R. Part 5 Subpart F). You should make certain that this form is at all times up to date with the HUD Regulations.*

Re: Jordan Downs Phase 1A Apartments, 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002, Los Angeles, California

The undersigned hereby (certify) (certifies) that:

1. This Certification of Tenant Eligibility is being delivered in connection with the undersigned’s application for occupancy of Apartment # \_\_\_\_\_ in the Jordan Downs Phase 1A Apartments located at 9901 S. Alameda Street, also known as 2101 East Century Boulevard, Los Angeles, CA 90002, in Los Angeles, California.

2. List all the occupants of the apartment, the relationship (if any) of the various occupants, their ages, and indicate whether they are students (for this purpose, a student is any individual who has been, or will be, a full-time student at an educational institution during five months (whether consecutive or not) of the year in which this application is submitted, other than a correspondence school, with regular facilities and students).

|     | <b>Occupant</b> | <b>Relationship</b> | <b>Age</b> | <b>Student<br/>(Yes or No)</b> | <b>Social Security<br/>Number</b> |
|-----|-----------------|---------------------|------------|--------------------------------|-----------------------------------|
| (a) | _____           | _____               | _____      | _____                          | _____                             |
| (b) | _____           | _____               | _____      | _____                          | _____                             |
| (c) | _____           | _____               | _____      | _____                          | _____                             |
| (d) | _____           | _____               | _____      | _____                          | _____                             |
| (e) | _____           | _____               | _____      | _____                          | _____                             |
| (f) | _____           | _____               | _____      | _____                          | _____                             |

3. If all of the occupants are students, answer the following questions for each occupant

(a) Is any student listed in paragraph 2 above married and files a joint return for federal income tax purposes? List any such students.

Name(s) No Not Applicable



lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses; amounts which are specifically for reimbursement of medical expenses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of \$200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of \$480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of \$480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charges for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973; is as follows:

| Occupant           | Anticipated Annual Income | Source of Income or Employer |
|--------------------|---------------------------|------------------------------|
| (a) _____<br>_____ | \$ _____                  | _____                        |
| (b) _____<br>_____ | \$ _____                  | _____                        |
| (c) _____<br>_____ | \$ _____                  | _____                        |
| (d) _____<br>_____ | \$ _____                  | _____                        |
| (e) _____<br>_____ | \$ _____                  | _____                        |
| (f) _____<br>_____ | \$ _____                  | _____                        |
| TOTAL              | \$ _____                  |                              |

5.(a) Do the persons whose income or contributions are included in Item 4 above have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the

values of necessary items of personal property such as furniture and automobiles and interest in Indian trust land)?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(b) Have the persons whose income or contributions are included in Item 4 above disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(d) If the answer to (c) above is yes,

(i) insert the total value of all such assets owned or disposed of \$ \_\_\_\_\_; and

(ii) state:

(A) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent:

\$ \_\_\_\_\_

(B) the amount of such income, if any, that was included in Item 4 above:

\$ \_\_\_\_\_

6. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter, the "Borrower"), has any family relationship to the Borrower or owns directly or indirectly any interest in the Borrower. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member and ownership, direct or indirect, by a partner of the individual.

7. This Income Certification is made with the knowledge that it will be relied upon by the Borrower to determine maximum income for eligibility to occupy the unit, and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in



paragraph 4 is reasonable and based upon such investigation as the undersigned deemed necessary.

8. I/we will assist the Borrower in obtaining any information or documents required to verify the statements made therein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

9. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement (whether or not intentional) in this Income Certification will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent my/our occupancy of the unit and will be cause for immediate termination of such lease.

10. The undersigned hereby acknowledge and agree that on or before January 1 (or upon Lease renewal) of each year the undersigned and any other current residents of such apartment will complete and deliver a new Income Certification, in the form then in use, to the Borrower and that the undersigned's rent is subject to increase 30 days after written notice is given to the undersigned stating that the undersigned no longer qualifies as a Lower Income Tenant under the Tax Regulatory Agreement.

11. RESIDENT(S) STATEMENT: I/We certify that the statements are true and complete to the best of my/our knowledge and belief and are given under penalty of perjury. In the event this Income Certification is executed more than five days prior to the date I/we intend to occupy the unit, I/we hereby agree to update and recertify the accuracy of the information herein provided as of the date I/we first occupy the unit:

- (a) \_\_\_\_\_ Date: \_\_\_\_\_
- (b) \_\_\_\_\_ Date: \_\_\_\_\_
- (c) \_\_\_\_\_ Date: \_\_\_\_\_
- (d) \_\_\_\_\_ Date: \_\_\_\_\_
- (e) \_\_\_\_\_ Date: \_\_\_\_\_
- (f) \_\_\_\_\_ Date: \_\_\_\_\_

*[The signatures of all persons over the age of 18 years listed in Number 2 above are required]*

12. Calculation of Eligible Income:

- (a) Enter the amount entered for entire household in 4 above: \$ \_\_\_\_\_
- (b) Enter income derived from assets (line 5(d)(2)(A)): \$ \_\_\_\_\_
- (c) Subtract (b) from (a) \$ \_\_\_\_\_

- (d) Multiply the amount entered in 5(d)(1) by the current passbook savings rate to determine the total annual earnings on assets [5(d)(1)] if invested in passbook savings.

Passbook rate \_\_\_\_\_ % X \_\_\_\_\_ = \$ \_\_\_\_\_

- (e) Enter the greater of (b) or (d) \$ \_\_\_\_\_

- (f) TOTAL ELIGIBLE INCOME (Line (e) + (c)) \$ \_\_\_\_\_

13. The amount entered in 12(f):

(a) \_\_\_\_\_ Qualifies the applicant(s) as a Lower Income Tenant(s).

(b) \_\_\_\_\_ Does not qualify the applicant(s) as Lower Income Tenant(s).

14. Number of apartment unit assigned: \_\_\_\_\_

Bedroom size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_

Tenant-paid Utilities:

Water \_\_\_\_\_ Gas \_\_\_\_\_ Electric \_\_\_\_\_

Trash \_\_\_\_\_ Other (list type) \_\_\_\_\_

15. Was this apartment unit last occupied for a period of 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as Lower Income Tenants?

\_\_\_\_\_ Yes \_\_\_\_\_ No

16. Method used to verify applicant(s) income:

\_\_\_\_\_ Employer income verification

\_\_\_\_\_ Social Security Administration verification

\_\_\_\_\_ Department of Social Services verification

\_\_\_\_\_ Copies of tax returns

\_\_\_\_\_ Other ( \_\_\_\_\_ )

17. Method used to verify responses, if any, in paragraph 3 of this Income Certification:

\_\_\_\_\_ Copies of Tax Returns

\_\_\_\_\_ Evidence of participation in an enumerated program

18. BORROWER'S STATEMENT: Based on the representations herein and upon the proofs and documentation submitted pursuant to paragraph 8 hereof, the family or individual(s) named in paragraph 2 of this Income Certification is/are eligible under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants to live in a unit in the Project.

Date \_\_\_\_\_

Signature of Authorized Borrower Representative:

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

EXECUTION OF ITEMS 19 AND 20

\_\_\_\_\_ IS \_\_\_\_\_ IS NOT NECESSARY.

Initials: \_\_\_\_\_.

19. If this Income Certification was executed by me/us more than five days prior to my/our occupancy of the unit, I/we hereby update and recertify the accuracy of the information herein provided as of \_\_\_\_\_, 20\_\_\_\_ and state:

\_\_\_\_\_ (a) No additional information is required to be provided to make this Income Certification true and correct on the date of this certification.

\_\_\_\_\_ (b) The following information is provided to update the information previously provided in the Income Certification:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Remainder of Page Intentionally Left Blank]

- (a) \_\_\_\_\_ Date: \_\_\_\_\_
- (b) \_\_\_\_\_ Date: \_\_\_\_\_
- (c) \_\_\_\_\_ Date: \_\_\_\_\_
- (d) \_\_\_\_\_ Date: \_\_\_\_\_
- (e) \_\_\_\_\_ Date: \_\_\_\_\_
- (f) \_\_\_\_\_ Date: \_\_\_\_\_

20. **BORROWER'S STATEMENT:** The family or individual(s) named in paragraph 2 of this Income Certification have, pursuant to paragraph 19 hereof, updated and recertified the information heretofore provided as specifically set forth in paragraph 19 hereof.

Date \_\_\_\_\_

Signature of Authorized Borrower  
Representative

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

[Remainder of Page Intentionally Left Blank]

**INCOME VERIFICATION**  
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed by the issuance of a bond by the City of Los Angeles for persons of low or moderate income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual Wages \_\_\_\_\_

Overtime \_\_\_\_\_

Bonuses \_\_\_\_\_

Commissions \_\_\_\_\_

Total Current Income \_\_\_\_\_

I hereby certify that the statements above are true and complete to the best of my knowledge.

\_\_\_\_\_  
Date

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

I hereby grant you permission to disclose my income to \_\_\_\_\_,  
in order that they may determine my income eligibility for rental of an apartment located in their  
project which has been financed by an issuance of a bond by the City of Los Angeles.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Please send form to: \_\_\_\_\_

[Income Verification Signature Page]

**INCOME VERIFICATION**  
(for self-employed persons)

I hereby attach copies of my individual federal and state (if applicable) income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Date \_\_\_\_\_

Signature \_\_\_\_\_

**EXHIBIT D**

**FORM OF ANNUAL TENANT INCOME RECERTIFICATION**

**CITY OF LOS ANGELES  
ANNUAL TENANT INCOME RECERTIFICATION**

Project name \_\_\_\_\_  
Apartment # \_\_\_\_\_ Date of Original Certification \_\_\_\_\_  
Resident name \_\_\_\_\_

*TO THE RESIDENT:*

*This form is a continuation of the City of Los Angeles (the "City") Affordable Housing Program (the "Program") which was previously discussed with you. In order to keep you on the qualifying list, you will need to update the following information each year when you renew your lease. The Borrower is required by the Internal Revenue Code of 1986 and the City to maintain this information in order to maintain the Program.*

**Household Composition:**

- 1) Please list all of those individuals residing in your apartment.
- 2) Please list the anticipated annual income of all occupants of your household who are 18 years of age or older (if housemaker, or unemployed, etc.—please list as such).
- 3) If college or technical school student, please list if full-time or part-time student.

|    | <b>NAME</b> | <b>SS#</b> | <b>AGE</b> | <b>ANTICIPATED ANNUAL INCOME*</b> | <b>OCCUPATION/STUDENT</b> |
|----|-------------|------------|------------|-----------------------------------|---------------------------|
| 1) |             |            |            |                                   |                           |
| 2) |             |            |            |                                   |                           |
| 3) |             |            |            |                                   |                           |
| 4) |             |            |            |                                   |                           |
| 5) |             |            |            |                                   |                           |
| 6) |             |            |            |                                   |                           |
| 7) |             |            |            |                                   |                           |

\*SEE INCOME DEFINITION ATTACHED TO THIS FORM.

DO YOU OWN OR HAVE YOU ACQUIRED OR HAVE YOU DISPOSED OF ANY ASSETS OVER \$5,000.00 IN THE PAST YEAR? \_\_\_\_\_

If so, please describe and list amount and annual income expected to be derived from such assets. \_\_\_\_\_

If all persons residing in your apartment are full-time students, please indicate for each such person whether they are: (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act); or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents.



**Please have all occupants over the age of 18 sign this certification.**

I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/we declare under penalty of perjury that the foregoing is true and correct.

SIGNATURES:

DATE:

- |          |       |
|----------|-------|
| 1) _____ | _____ |
| 2) _____ | _____ |
| 3) _____ | _____ |
| 4) _____ | _____ |

MANAGER'S SIGNATURE:

\_\_\_\_\_

**DEFINITION OF INCOME**

The full amount, before any payroll deductions, of wages, salaries, overtime, commissions, fees, tips, and bonuses; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets); interest and dividends (including income from assets excluded below); the full amount of periodic payments from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic payments including any lump sum payment for the delayed start of a periodic payment; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; all public assistance income; periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; all regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling) who are the head of the family or spouse; and any earned income tax credit to the extent that it exceeds income tax liability;

but excluding:

income from employment of children (including foster children) under the age of 18 years; payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone); lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses; amounts which are specifically for reimbursement of medical

expenses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of \$200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of \$480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of \$480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charges for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973.

**EXHIBIT E**

**FORM OF CERTIFICATE OF CDLAC PROGRAM COMPLIANCE**

Project Name: Jordan Downs Phase 1A Apartments

Name of Bond Issuer: City of Los Angeles

CDLAC Application No.: 16-422

Pursuant to Section 13 of Resolution No. 16-117 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on July 20, 2016, 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 Resolution, which specifies that once the Bond is 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 allocations or any other available remedy.

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

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

\_\_\_\_\_ The project has incorporated the minimum specification into the project design for all new construction and rehabilitation projects as evidenced by the attached third party certification (HERS Rater, Green Point Rater or US Green Building Council). For project 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 F**

[RESERVED]

**EXHIBIT G**  
**CDLAC RESOLUTION**

**EXHIBIT H**

**FORM OF SLAVERY DISCLOSURE ORDINANCE CERTIFICATE**

## EXHIBIT I

### ADA COVENANTS

#### Section 1. Definitions.

“Accessibility Requirements” refers to the accessibility requirements that must be followed in the design, construction or alteration of the Project or an individual housing unit of the Project (including common use elements), based on all the applicable laws and regulations, including: (1) all applicable building codes in effect for the City of Los Angeles Building and Safety Department, including state law; (2) Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §12101, et seq. and the implementing standards (“2010 ADA Standards”) at 28 C.F.R. Part 35 and the 2004 ADA Accessibility Guidelines (“ADAAG”); (3) Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. §794, the implementing regulations at 24 C.F.R. Part 8, as well as the requirements of UFAS; and (4) the Fair Housing Act of 1968, as amended (“FHA”), 42 U.S.C. §§3601-3619; and its implementing regulations as 24 C.F.R. Parts 100, 103, 108, 110, and 121.

“Accessible” means, when used with respect to a Housing Unit or Housing Development, full compliance with the Accessibility Requirements.

“Accessible Housing Development” means a Housing Development that is Accessible, including Accessible public and common use areas.

“Accessible Housing Units” means collectively Housing Units that are on an Accessible Route, are Accessible, and are located in an Accessible Housing Development. The term Accessible Units refers collectively to Housing Units with Mobility Features and Housing Units with Hearing/Vision Features.

“Fair Housing Policy in Regard to Disability” means the document containing the policy of the City, as amended periodically, that all affordable housing developments monitored by HCIDLA be constructed and operated in accordance with all applicable disability and fair housing laws and under which the Borrower is required to create a Property Management Plan (“Property Management Plan” or “PMP”) as described in Section 4 that must comply with the requirements and guidance in the Fair Housing Policy in Regard to Disability. The PMP must be consistent with HCIDLA’s Property Management Plan template and must be approved by HCIDLA along with other requirements, as amended periodically.

“HCIDLA” means the Housing and Community Investment Department of the City of Los Angeles and its successors and assigns.

“Housing Development” means the whole of one or more residential structures and appurtenant structures in the Project, including common walkways and parking lots that were or are designed, constructed, altered, operated, administered or financed in whole or in part in connection with the issuance of Bonds.

“Housing Unit” means a single unit of residence in the Housing Development that provides spaces for living, bathing, and sleeping.

“Housing Unit with Hearing/Vision Features” means a Housing Unit that complies with 24 C.F.R. §8.22 and the applicable UFAS or 2010 ADA Standards.

“Housing Unit with Mobility Features” means a Housing Unit that complies with 24 C.F.R. §8.22 and the applicable UFAS or 2010 ADA Standards.

“UFAS” means the Uniform Federal Accessibility Standards for the design, construction or alteration of buildings and facilities to ensure that they are readily accessible to and usable by individuals with disabilities, 24 C.F.R §40, Appendix A.

All terms used herein and not otherwise defined shall have the meanings set forth in the Regulatory Agreement.

**Section 2. Requirements of the City.** The Borrower represents, warrants, covenants and agrees as follows:

(a) Accessible Housing Units. The Housing Development shall be constructed in accordance with the 2010 ADA Standards to ensure accessibility for persons with disabilities. Accessibility retrofit of the development shall take place concurrently with Project construction. The following types of Accessible Housing Units shall be prioritized for persons with disabilities who have a disability-related need for the accessibility features of the unit.

(i) At least ten percent (10%) of the total Housing Units in the Housing Development shall be constructed and maintained by the Borrower as Housing Units with Mobility Features.

(ii) At least four percent (4%) of the total Housing Units in the Housing Development shall be constructed and maintained by the Borrower as Housing Units with Hearing/Vision Features.

(iii) In determining the number of units any fractions of units shall be rounded up to the next whole number.

(iv) The Accessible Housing Units shall, to the maximum extent feasible, be geographically distributed and dispersed in terms of location within the Housing Development, and shall be provided in a range of unit sizes and types.

(v) The Project shall comply with HCIDLA Accessibility Regulations Matrix & Overview, Accessible Design/Construction Compliance Requirements, Accessibility Report Requirements.

(vi) Following reasonable notice to Borrower, Borrower shall allow the City to conduct annual on-site inspections of the Housing Development and the Housing Units in order to verify compliance with the Accessibility Standards.

(b) The Housing Development as a whole and all Housing Units shall meet the requirements of the FHA as defined above.



**Section 3. Occupancy of Accessible Units.** Borrower shall use suitable means to assure that information regarding the availability of Accessible Units reaches eligible individuals with disabilities, and will take reasonable, nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, Borrower will take the following steps when an Accessible Unit becomes vacant:

- a. First, Borrower will offer the unit to a current occupant of the Housing Development who has requested and needs the features of an Accessible Unit;
- b. Second, Borrower will offer the unit to a current occupant of a Housing Development under common control who has requested and needs the features of an Accessible Unit;
- c. Third, Borrower will offer the unit to an eligible, qualified applicant on the accessible waiting list who needs the features of an Accessible Unit;
- d. Fourth, Borrower will make reasonable efforts to advertise the unit to qualified individuals who need the accessible features, including listing it as available to individuals who need the accessible features at <http://www.Housing.LACity.org>, distributing the information about the accessible vacancy in accord with the Borrower's City approved Property Management Plan, distributing it to the most recent list from HCID of organizations that serve people with disabilities, and sending an e-blast to parties on the Housing.LACity.org website Outreach List.

In the event that more than one household has requested an Accessible Unit, Borrowers will offer the Unit to households in order on the Waiting Lists within each category.

If, after using the process identified above, there are no households who need the features of that Accessible Unit, then Borrower will offer the unit to the next household on the conventional unit waiting list. Should that household choose not to occupy the Accessible Unit, they will remain at the same position on the conventional waiting list. If the household chooses to occupy the Accessible Unit, the tenant must sign a Lease Addendum in the form approved by HCIDLA. The Lease Addendum requires the household to move to the next available, comparable, conventional unit, when given legal notice by the Housing Development that there is an eligible applicant or existing resident with a disability who requires the accessibility features of that Unit.

For individuals who are required to vacate an Accessible Unit because it is needed by an individual with a disability, Borrowers will pay the costs of transferring to a comparable conventional unit, including new utility deposit(s), if required, and reasonable moving expenses.

**Section 4. Rental Policies.** The Borrower shall adopt rental policies that meet the requirements of the ADA, other federal regulations as applicable, and the Fair Housing Policy in Regard to Disability of the City, as amended. To that end, Borrower shall adopt the HUD approved rental occupancy policies provided by the City. Borrower shall develop and utilize a

PMP approved by the City which describes affirmative marketing, tenanting, and other procedures to ensure that the Housing Development meets all of the fair housing requirements for individuals with disabilities. Within 90 days of bond issuance, the Housing Development must have an approved PMP.

Rental applications will include a section to be filled out by applicants requesting an accommodation. Applicants will not be required to disclose a disability under any circumstances unless requesting reasonable accommodation or modification and that disclosure shall be limited to only what is necessary to establish the need for the requested accommodation or modification. Outreach efforts to the disability community shall include, but not limited to, notices and other communications describing the availability of such units, specific information regarding the features of accessible units, eligibility criteria, and application procedures. These, and additional procedures, are incorporated into the HCIDLA Fair Housing Policy in Regard to Disability, dated July 28, 2014; as amended over time.

**Section 5. Residential Rental Property.** The Borrower hereby represents, covenants, warrants and agrees as follows:

(a) All of the dwelling units in the Project will be similarly constructed units, and each income restricted unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range and oven, a sink and a refrigerator. Each of the Accessible Housing Units shall also comply with these requirements. Notwithstanding the foregoing, a unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit within the meaning of Section 42(i)(3)(B)(iv) of the Code even though such housing may provide eating, cooking and sanitation facilities on a shared basis.

(b) All of the dwelling units (which shall not include any manager units) will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that for the following: (1) any dwelling units are required to be leased or rented to low income tenants; (2) the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City); (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project; (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law; and (5) Accessible Housing Units shall be made available to persons with disabilities as provided herein.

**Section 6. Monitoring Requirements.** HCIDLA will monitor the initial production and ongoing occupancy of the Accessible Housing Units and the Accessible Housing Development by applying the updated ADAAG to ensure full compliance with the Accessibility Requirements. In order to determine compliance with the Accessibility Requirements, Borrower shall submit and HCIDLA shall review and approve a Certified Access Specialist (“CASp”) Inspection Report of the housing development that identifies the necessary and required design elements to make the units and site accessible for individuals with disabilities. HCIDLA shall inspect the

construction/rehabilitation to verify production of the correct number of Accessible Housing Units and appropriate site improvements, in compliance with Section 2 and supported by an independent CASp consultant's report.

From the date of this Agreement through the term of the Regulatory Agreement as set forth in Section 8, HCIDLA will utilize the Housing Development's City approved Property Management Plan and Fair Housing Policy in Regard to Disability, to monitor ongoing occupancy compliance of the Accessible Housing Units and nondiscrimination in regards to individuals with disabilities. Compliance with the Accessibility Requirements shall include, but not be limited to, target marketing, establishing and monitoring a waiting list specific to the Accessible Housing Units, reasonable accommodations and modifications, a service animal policy, policy for re-leasing empty Accessible Housing Units and all elements contained in the Fair Housing Policy in Regard to Disability dated July 28, 2014, as amended over time.

**Section 7. Notices, Demands, Payments and Communication.** Formal notices, demands, payments and communications between the City and the Borrower shall be sufficiently given and dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to the principal office of the City as follows:

To City:

City of Los Angeles  
Housing and Community Investment Department  
P.O. Box #532729  
Los Angeles, CA 90053-2729  
Attention: Portfolio Management

To Borrower:

Jordan Downs 1A, LP  
c/o Bridge Housing Corporation  
600 California Street, Suite 900  
San Francisco, CA 94108  
Attention: Rebecca Hlebasko

**Section 8. Term of the ADA Covenants.** The covenants contained in this Exhibit shall become effective upon the issuance of the Bond and shall terminate at the end of the CDLAC Conditions set forth in the California Debt Limit Allocation Committee Resolution for the Project, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bond.

**Section 9. Covenant To Run With the Land.** The Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City 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 title to the Project; provided, however, that on the termination of this 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 10. Default; Enforcement.** As part of ensuring compliance with the Accessibility Requirements, the City or its agent, will conduct annual on-site visits inspecting the Housing Development, which inspection may include inspecting the Housing Units and common areas, tenant files, logs and other records. Should the Borrower fail to comply with the Accessibility Requirements, the City will first issue an Order to Comply (“Order”) stating the element of the Housing Development that is out of compliance, and providing a date by which the Borrower must comply. The Order to Comply shall give the Borrower not more than 30 days to correct the violation, or such additional time as the City may grant if the Borrower is taking steps to correct the violation (“Compliance Date”), and diligently pursues such action until the default is corrected, which extension is in the City’s sole discretion. The City shall reinspect the Housing Development within 10 days of the Compliance Date specified in the Order or any extension; however, failure to inspect or reinspect within the time frame does not remove the obligation of the Borrower to comply with the Order.

If the Order is issued and the violation continues to exist after the Compliance Date, the City may take any one or more of the following steps:

(a) **Inspection Fee for Non-Compliance.** In the event the Borrower fails to comply with the Order within the Compliance Date, the Borrower shall be liable for subsequent inspection fees in the amount approved by Council until compliance has been achieved. Failure to pay the assessed inspection fee within 30 days of the date of invoice will result in a late charge equal to two times the fee and a collection fee equal to 50% of the original fee shall be imposed if any fee imposed is not paid within 30 days of service of notice of the imposition of the fee.

The late fee may be imposed without a hearing but may be appealed to the General Manager of HCIDLA. The appeal shall be made in writing, and shall specify the grounds for the appeal. The appeal shall be filed with HCIDLA within 10 calendar days of the issuance of the imposition of the late fees and costs. The General Manager or his designee shall issue a decision within 10 calendar days of the filing of the appeal. A copy of the decision shall be served on the person or entity subject to the Order or fee by first class United States mail, postage prepaid, or in person. The City shall have the right to bring legal action in any court to enforce the Order and collect the amount of outstanding fees and penalties. The HCIDLA may waive the penalty imposed pursuant to this section if HCIDLA determines that good cause exists for the Borrower’s failure to pay in a timely manner.

(b) 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 City hereunder;

(c) Have access to and inspect, examine and make copies of all or a portion of the books and records of the Borrower pertaining to the Project; and

(d) 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.

**Section 11. Americans with Disabilities Act.** The Borrower hereby certifies that it and any contractor and subcontractor will comply with the Accessibility Requirements. The Borrower and any contractor and subcontractor will provide reasonable accommodations upon request to ensure equal access and effective communication to all its programs, services, and activities in accordance with the applicable provisions of the ADA, the ADAAA, the ADAAG, Section 504, the UFAS, the FHA and all subsequent amendments. The Borrower and any contractor and subcontractor will not discriminate in the provision of its programs, services and activities 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 Regulatory Agreement and the Project, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**Section 12. Parties Bound.** The provisions of this Agreement shall be binding upon and inure to the benefit of the City and Borrower and their respective successors and assigns.