

ATTACHMENT A

HOLLY L. WOLCOTT
CITY CLERK

GREGORY R. ALLISON
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division

200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
GENERAL INFORMATION - (213) 978-1133
FAX: (213) 978-1040

SHANNON HOPPE
DIVISION MANAGER

CLERK@CITY.ORG

When making inquiries relative to
this matter, please refer to the
Council File No.: 15-1183

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

October 16, 2015

Council File No.: 15-1183
Council Meeting Date: October 14, 2015
Agenda Item No.: 35
Agenda Description: CONSIDERATION OF MOTION (PRICE - MARTINEZ) relative to the sale of the property located at 1010 Jefferson Boulevard to Hollywood Community Housing Corporation (HCHC) for the development of affordable housing.

Council Action: MOTION - ADOPTED

Council Vote:

YES	BOB BLUMENFIELD
YES	MIKE BONIN
YES	JOE BUSCAINO
YES	GILBERT A. CEDILLO
YES	MITCHELL ENGLANDER
YES	FELIPE FUENTES
YES	MARQUEECE HARRIS-DAWSON
YES	JOSE HUIZAR
YES	PAUL KORETZ
YES	PAUL KREKORIAN
YES	NURY MARTINEZ
YES	MITCH O'FARRELL
YES	CURREN D. PRICE
YES	DAVID RYU
YES	HERB WESSON

HOLLY L. WOLCOTT
CITY CLERK

ATTACHMENT B

LOAN AGREEMENT

THE CITY OF LOS ANGELES, LENDER

(ACQUISITION LOAN)

Borrower: HOLLYWOOD COMMUNITY HOUSING CORPORATION
A California non-profit corporation

Project: 1010 JEFFERSON

Loan Amount: \$1,200,000 SELLER TAKE BACK FINANCING
(RESIDUAL RECEIPT) - NO NEW FUNDS ARE TO BE
DISBURSED AS PART OF THIS AGREEMENT

Funding Source: CDBG Funds = \$1,200,000

Los Angeles City Council File Numbers: 06-0100-S12, 07-1277-S2,
and 15-1183

Said Agreement is Number _____ Of City
Contracts

MOTION

On October 5, 2007, City Council authorized the Los Angeles Community Development Department (CDD) to lend Community Enhancement Corporation (CEC) \$1,000,000 in Community Development Block Grant (CDBG) funds for the purchase of the Angelus Funeral Home, located at 1010 Jefferson Boulevard in the 9th Council District (the "Property"). The Property was purchased from CRA/LA and was to be used by CEC for the provision of child/health care and educational/training services to local low-moderate income residents (CF# 06-0100-S12). Because CEC was not able to provide the services as required under the Service Payback Loan Agreement, on March 7, 2013, a Trustee's Deed Upon Sale conveyed the Property from CEC to the CDD.

In July 2013, the City Council and the Mayor merged the Los Angeles Housing Department (LAHD) and the community services portion of the CDD into a new department re-named the Housing + Community Investment Department (HCIDLA). The aforementioned property is among the real estate assets brought to the HCIDLA by the former CDD.

Since then, HCIDLA has actively managed the Property with the assistance of the General Services Department. However, being that the Property has been vacant for decades, it is an easy target for vandalism and other illegal activity. Despite the City's best efforts, the Property remains a blight and a danger for the surrounding community.

Moreover, because the Property was acquired with CDBG funds it must meet a National Objective of benefiting very low and low income persons. Since child care and/or health care services were never initiated by CEC, the National Objective was never met. This situation has placed the \$1,000,000 of CDBG funds at risk of being re-captured by the United States Department of Housing and Urban Development (HUD).

Los Angeles Administrative Code Section 7.27 ("Private Sale") permits the sale of City owned real property without notice of sale or advertisement for bids provided that the City Council determines that the public interest or necessity requires such sale. For the following reasons, HCIDLA believes that the public interest and necessity require the sale of the Property to Hollywood Community Housing Corporation (HCHC) (a community development organization whose mission includes neighborhood, housing, and economic development) for its full appraised value of \$1,200,000 without notice of sale or advertisement for bids. First, HCHC is already presently undertaking pre-development work on its Florence Mills development, an affordable housing project directly across the street from the Property. HCHC can easily merge Florence Mills and the Property into a larger mixed-use development meeting a National Objective, thus ending the negative impact resulting from the Property's current physical condition and resolving potential re-capture threats in an expedited manner. Further, HCHC is the current owner of multiple adjacent parcels surrounding the Property and has access to City and non-City funding through its position within the HCIDLA Managed Pipeline, thus, it would be cost effective and efficient to transfer development control of the Property to HCHC through a development agreement documentation consistent with previous HCIDLA transactions of this nature. A development agreement would ensure that HCIDLA controls the performance milestones necessary to move the full development of housing and services forward, while at the same time

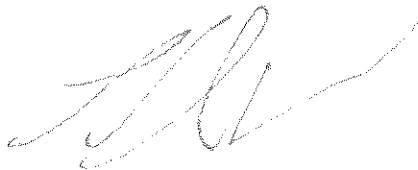


TABLE OF CONTENTS

	Page
LOAN AGREEMENT	1
<u>RECITALS</u>	1
<u>ARTICLE 1. TERMS OF LOAN</u>	3
1.1 CITY BUSINESS TAX REGISTRATION CERTIFICATE	3
1.2 LOAN	3
1.3 AMOUNT OF LOAN	3
1.4 INTEREST	3
1.5 TERM OF LOAN	4
1.6 NOTICES, DEMANDS AND COMMUNICATIONS	4
1.7 SOURCES OF FUNDS AND COMPLIANCE WITH FUNDING REQUIREMENTS	4 4
1.8 USE OF FUNDS	5
1.9 INTENTIONALLY DELETED	5
1.10 LOAN IN BALANCE	5
1.11 COLLATERAL	5
1.12 PREPAYMENT OF LOAN	6
1.13 REPAYMENT OF LOAN	6
1.14 MAINTENANCE OF RECORDS, RIGHT TO INSPECT AND COPY	7
1.15 AUDITS & INSPECTIONS	9
1.16 RESIDUAL RECEIPTS	10
1.17 ANNUAL OPERATING EXPENSES	11
1.18 OPERATING RESERVE FUND	11
1.19 REPLACEMENT RESERVE FUND	12
1.20 TITLE AND TITLE INSURANCE	13
1.21 RECORDING	13
1.22 TRANSFER OF PROPERTY	13
1.23 ENCUMBRANCE OF PROPERTY	14
<u>ARTICLE 2. DEVELOPMENT OF PROJECT</u>	16
2.1 LOCAL, STATE AND FEDERAL LAWS	16
2.2 NONDISCRIMINATION	20
2.3 RELOCATION	21
2.4 CONSTRUCTION RESPONSIBILITIES	21
2.5 ENVIRONMENTAL ASSESSMENT REPORT	22
2.6 PLANS AND SPECIFICATIONS	22
2.7 WORK WRITE-UP	23
2.8 CONTRACTS AND SUBCONTRACTS	23
2.9 PREVAILING WAGES	23
2.10 DAVIS-BACON ACT.	24
2.11 CONSTRUCTION BONDS	25
2.12 CITY AND OTHER GOVERNMENTAL AGENCY PERMITS	26
2.13 COMMENCEMENT OF CONSTRUCTION	26

2.14	LEAD-BASED PAINT AND ASBESTOS REMOVAL	29
2.15	DESIGN AND CONSTRUCTION	29
2.16	FAITH-BASED ORGANIZATIONS	30
2.17	INSPECTIONS	30
2.18	ADDITIONS OR CHANGES IN WORK	30
2.19	MECHANICS LIENS AND STOP NOTICES	30
2.20	COMPLETION OF CONSTRUCTION AND IN-SERVICE DATE	31
2.21	SCHEDULING AND EXTENSIONS OF TIME	31
2.22	EXCUSABLE DELAYS	32
2.23	NOTICE OF COMPLETION	32
2.24	QUALITY OF WORK	33
2.25	RECORDS	34
<u>ARTICLE 3. PROJECT OPERATION</u>		34
3.1	FEES, TAXES, AND OTHER LEVIES	34
3.2	OBLIGATION TO REFRAIN FROM DISCRIMINATION	35
3.3	MANAGEMENT OF PROJECT	35
3.4	OPERATION OF PROJECT	36
3.5	DESIGNATED ASSISTED UNITS	37
3.6	TENANT SELECTION	37
3.7	INCOME CERTIFICATION	39
3.8	PROJECT RENTS	39
3.9	FORM OF NONDISCRIMINATION AND NONSEGREGATION CLAUSES	40
3.10	LEASING THE PROJECT	42
3.11	NOTICE TO TENANTS	44
3.12	AFFORDABILITY RESTRICTIONS AND MAXIMUM RENTAL CHARGES	45
3.13	COMPLIANCE WITH REGULATORY AGREEMENT	45
3.14	CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY	46
<u>ARTICLE 4. EMPLOYMENT</u>		46
4.1	NONDISCRIMINATION	46
4.2	EQUAL OPPORTUNITY	47
4.3	EMPLOYMENT OPPORTUNITIES FOR BUSINESS AND LOWER-INCOME PERSONS	51
4.4	PARTICIPATION OF SMALL, MINORITY AND WOMENS BUSINESSES (MBE/WBE)	52
4.5	AFFIRMATIVE ACTION IN EMPLOYMENT AND CONTRACTING PROCEDURES	53
4.6	LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE	54
4.7	AMERICANS WITH DISABILITIES ACT	56
4.8	EQUAL BENEFITS ORDINANCE	57
4.9	CONTRACTOR RESPONSIBILITY ORDINANCE	58
4.10	SLAVERY DISCLOSURE ORDINANCE	59

4.11	CHILD SUPPORT ASSIGNMENT ORDERS	59
4.12	ENFORCEMENT OF EMPLOYMENT REQUIREMENTS	60
4.13	LABOR COMPLIANCE MEETING	61
<u>ARTICLE 5. INDEMNITY AND INSURANCE</u>		61
5.1	DAMAGE TO PROPERTY	61
5.2	INSURANCE COVERAGE	62
5.3	INSURANCE POLICY REQUIREMENTS DURING ACQUISITION AND DEVELOPMENT	64
5.3	INSURANCE POLICY REQUIREMENTS DURING PERMANENT PHASE	65
5.4	NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS	69
5.5	BONDS	69
5.6	INDEMNIFICATION	69
5.7	INTELLECTUAL PROPERTY INDEMNIFICATION	69
<u>ARTICLE 6. ENVIRONMENTAL COMPLIANCE</u>		70
6.1	REPRESENTATIONS AND WARRANTIES	70
6.2	NOTIFICATION TO LENDER	71
6.3	USE AND OPERATION OF PROPERTY	71
6.4	COMPLIANCE WITH ENVIRONMENTAL STANDARDS	71
6.5	REMEDIAL ACTIONS	72
6.6	RIGHT OF CONTEST	72
6.7	ENVIRONMENTAL INDEMNITY	72
<u>ARTICLE 7. DEFAULT AND REMEDIES</u>		73
7.1	EVENTS OF DEFAULT	73
7.2	CROSS DEFAULT	76
7.3	NOTICE OF DEFAULT AND OPPORTUNITY TO CURE	76
7.4	LENDER'S REMEDIES	77
7.5	BORROWER'S REMEDIES	79
7.6	INVESTOR LIMITED PARTNER RIGHTS	80
<u>ARTICLE 8. GENERAL PROVISIONS</u>		81
8.1	TIME	81
8.2	CONSTRUCTION OF PROVISIONS AND TITLES HEREIN	81
8.3	RELATIONSHIP OF PARTIES	82
8.4	ASSIGNMENT AND ASSUMPTION	82
8.5	BINDING UPON SUCCESSORS	82
8.6	CONFLICTS OF INTEREST	82
8.7	BORROWER'S WARRANTIES	85
8.8	INTELLECTUAL PROPERTY WARRANTY	86
8.9	OTHER AGREEMENTS	86
8.10	PROJECT MONITORING AND EVALUATION	86
8.11	CONSENTS AND APPROVALS	86
8.12	WAIVER	86
8.13	INTEGRATED AGREEMENT	87

8.14	AMENDMENTS AND MODIFICATIONS	87
8.15	APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT	87
8.16	CONFLICTS BETWEEN CITY DOCUMENTS	87
8.17	STATUTORY REFERENCES	88
8.18	SEVERABILITY	88
8.19	COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)	88
8.20	POLITICAL AND SECTARIAN ACTIVITY PROHIBITED	89
8.21	PUBLICITY	89
8.22	NONRECOURSE	90
8.23	CRIMINAL PENALTIES	90

EXHIBIT LIST
LOAN AGREEMENT
(1010 JEFFERSON)

EXHIBIT A	LEGAL DESCRIPTION
EXHIBIT A1	PROJECT DESCRIPTION
EXHIBIT B	DEFINITIONS
EXHIBIT C	CITY NOTE
EXHIBIT D	CITY DEED OF TRUST EXHIBIT A - LEGAL DESCRIPTION
EXHIBIT E	BUDGET AND ELIGIBLE COSTS
EXHIBIT F	METHOD OF FINANCING
EXHIBIT G	[INTENTIONALLY DELETED]
EXHIBIT H	CERTIFICATION REGARDING LOBBYING
EXHIBIT I	CERTIFICATION REGARDING DEBARMENT
EXHIBIT J	UCC-1 EXHIBIT A - COLLATERAL DESCRIPTION EXHIBIT B - LEGAL DESCRIPTION EXHIBIT C - DESCRIPTION OF IMPROVEMENTS, SPECIFICATIONS PLANS AND
EXHIBIT K	REGULATORY AGREEMENT EXHIBIT A - LEGAL DESCRIPTION EXHIBIT B - OCCUPANCY & RENT RESTRICTIONS EXHIBIT C1 & C2 - INSURANCE REQUIREMENTS
EXHIBIT L	ASSIGNMENT OF ARCHITECT'S CONTRACT AND PLANS AND SPECIFICATIONS AND PERMITS EXHIBIT A - ARCHITECT'S CONTRACT EXHIBIT B - CONSENT AND CERTIFICATE

EXHIBIT M	SCHEDULE OF PERFORMANCE EXHIBIT LIST (CONT.)
EXHIBIT N	AFFORDABILITY RESTRICTIONS AND MAXIMUM RENTS
EXHIBIT O	SECTION 3
EXHIBIT P	MAYOR'S EXECUTIVE DIRECTIVE NO. 2001-26
EXHIBIT Q	INSURANCE REQUIREMENTS

LOAN AGREEMENT
(1010 JEFFERSON)
(\$1,200,000)

This Loan Agreement is made and entered into by and between the City of Los Angeles, a municipal corporation ("Lender" or "City"), and Hollywood Community Housing Corporation, a California non-profit corporation ("Borrower").

RECITALS

A. The City wishes to promote the construction of multifamily rental housing within the City of Los Angeles.

B. The City has entered into Grant Agreements with the United States Department of Housing and Urban Development ("HUD"), pursuant to Title I of the Housing and Community development Act of 1974, as amended, 42 U.S.C. §5301, Housing and Community Block Grant funds ("CDBG Funds") to address the community development needs of the City.

C. CDBG Funds were provided in the 32nd Mid-Year Reprogramming (2006-2007) - City Council File Numbers 06-0100-S12 and 07-1277-S2, dated October 5, 2007 and March 26, 2008, respectively - which authorized a total of One Million Dollars (\$1,000,000) in CDBG Funds to assist Community Enhancement Corporation, a California non-profit corporation, in the acquisition of a building from the Community Redevelopment Agency ("Former Agency" or "CRA") for the purpose of developing a facility to provide child care and/or health clinic services to low- and moderate income residents of the community; and also, pursuant to Title IV, Subtitle B of the Stewart B. McKinney Homeless Assistance Act of 1987, Public Law 100-77, to address the needs of homeless persons in the City.

D. Community Enhancement Corporation defaulted on its agreement with the City. A Notice of Default and Election to Sell under Deed of Trust was recorded on October 22, 2012, as record number 20121593288. A Trustee's Deed upon Sale, recorded on March 8, 2013 as record number 20130355451, granted and conveyed all right title and interest in the property (described in Exhibit A) to the City.

E. The City issued a loan to the Borrower in the amount of One Million Two Hundred Thousand Dollars (\$1,200,000) from the City's CDBG Funds, loaned to support acquisition costs. The Property is sold at its appraised value and is authorized by Los Angeles City Council File Number 15-1183. This Project is eligible under 24 CFR 570, et seq., and shall be utilized to meet that national objective pursuant to 24 CFR 570.208(a) by providing affordable housing to individuals and/or households of low- and/or moderate income.

F. Borrower shall acquire the real property located at 1010 East Jefferson Boulevard, Los Angeles, California 90011-2433 (as more particularly described in Exhibit A) (the "Property") for the adaptive reuse and rehabilitation of a historic funeral home resulting in forty-one (41) housing units, of which One Hundred Percent (100%) of the forty (40) units shall be rented at prices affordable to 60% Income Households as defined in this City Loan Agreement for the project ("Project", as more particularly described in Exhibit A1)), and one (1) unrestricted manager's unit and as allowed under Proposition B of the 2008 Los Angeles City Special Municipal Election.

G. As a condition of this Loan, Borrower shall execute, among other things, the City Note, the City Deed of Trust and the Regulatory Agreement, in which the City Deed of Trust, and the Regulatory Agreement shall be recorded against the Property. These instruments are intended to secure Lender's continuing interest in the affordability and habitability of the Project, as well as to secure performance of other covenants contained in these agreements.

H. Borrower shall pay and/or advance any payments on taxes, penalties, and accrued interest that remain outstanding against the Property at the close of escrow. The approximate total of such amount is Three Hundred Thirty Two Thousand Nine Hundred Twenty Eight Dollars and Ninety Six Cents (\$332,928.96). Borrower shall also pay and/or advance any sums due for title and escrow. Said approximate amount, plus any accrued interest, will be reimbursed through a future new loan issued by the City through the Managed Pipeline.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of this Loan, Borrower and Lender hereby agree as follows:

The definitions of this City Loan Agreement are attached as Exhibit B, Definitions. Exhibit B is hereby incorporated into this City Loan Agreement by this reference.

ARTICLE 1. TERMS OF LOAN

1.1 **CITY BUSINESS TAX REGISTRATION CERTIFICATE.** The Borrower represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, section 21.00 et seq. of the Los Angeles Municipal Code). For the term covered by this Loan Agreement, Borrower shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance and shall not allow any such Business Tax Registration Certificate to be revoked or suspended.

1.2 **LOAN.** Lender agrees to provide a loan of funds to Borrower under the terms and conditions of the Loan Documents.

1.3 **AMOUNT OF LOAN.** On and subject to the terms and conditions of the Loan Documents, Lender agrees to make and Borrower agrees to accept a loan in an amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000), evidenced by a promissory note, (the "City Note"), in this amount and secured by the City Deed of Trust recorded against the Property. The City Note is attached as Exhibit C. The City Deed of Trust is attached as Exhibit D. The terms of Exhibit C and Exhibit D are hereby incorporated into this City Loan Agreement by this reference. Property is described in Exhibit A, which is hereby incorporated into this City Loan Agreement by this reference.

Upon the date of closing, Escrow Holder shall record the Regulatory Agreement, and City Deed of Trust with the Recorder for the County of Los Angeles, and shall deliver conformed copies of the recorded documents to the Lender and Borrower.

1.4 **INTEREST.** The City Note shall bear simple interest at the rate of four percent (4%) per annum on the principal amount outstanding from the date of the warrant (Los Angeles City check), until paid. Interest shall be computed based upon a three hundred sixty (360) day year, and a thirty (30) day month.

Notwithstanding the foregoing, and without limiting any other remedy of Lender, amounts not paid by Borrower when due shall bear interest from the date due to the date paid at the

rate of fifteen percent (15%) per annum ("Late Payment Rate").

1.5 **TERM OF LOAN.** This Loan Agreement shall commence on the date of execution and remain in full force and effect throughout the term of this Loan.

Unless sooner due pursuant to the City Note, the principal of the Loan and all accrued interest thereon shall be due and payable on the earliest of (a) twenty (20) years from the date of the execution of the City Note, (b) the date the Property is sold, assigned, transferred, or refinanced without City approval, or (c) an Event of Default by Borrower which has not been cured as provided for in this Loan Agreement.

1.6 **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Borrower and Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Borrower and Lender as follows:

LENDER: City of Los Angeles
Housing and Community Investment Department
P.O. Box # 532729
Los Angeles, CA 90053-2729
Attention: Monitoring and Technical Assistance
Division

BORROWER: Hollywood Community Housing Corporation
5020 Santa Monica Boulevard
Los Angeles, California 90029
Attention: Executive Director

1.7 **SOURCES OF FUNDS AND COMPLIANCE WITH FUNDING REQUIREMENTS.** The funds are from the 32nd Mid-Year Reprogramming (2006-2007) CDBG Funds, Los Angeles Council File Numbers 06-0100-S12 and 07-1277-S2. Council File Number 15-1183 authorized the sale of the Property and issuance of this Loan. Borrower must comply with all the requirements imposed on properties assisted under the applicable sources of funds:

- A. CDBG Funds - all federal statutes and regulations pertaining to the Community Development Block Grant program, including, but not limited to 42 USC §5301 et

seq., and 24 CFR Parts 84, 85, and 570 et seq.,

- B. Any other implementing rules and regulations are incorporated by this reference.
- C. In the event of any conflict between this Loan Agreement and the regulations of the applicable source of funds, the most restrictive requirement shall govern.

1.8 **USE OF FUNDS.** Borrower shall use and/or show proof that it used Loan proceeds only for the Eligible Costs and in the amount specified in the Budget as well as any revisions to the Budget or Eligible Costs authorized by this Loan Agreement or approved in writing by Lender. In its sole discretion, HCIDLA may approve changes in the budget by the execution of an approval letter stating the reasons for the changes which shall include an attached modified budget. Borrower shall adhere to the modified budget. Any line item increases are to be first funded from the contingency line item, then from any costs savings in any one line item. The Budget is attached as Exhibit E, which is hereby incorporated into this City Loan Agreement by this reference. The Eligible Costs are specified in Exhibit E, which is hereby incorporated into this City Loan Agreement by this reference. The Method of Financing is specified in Exhibit F, which is hereby incorporated into this City Loan Agreement by this reference.

1.9 INTENTIONALLY DELETED.

1.10 INTENTIONALLY DELETED.

1.11 **COLLATERAL.** As collateral for the Loan, the Borrower shall provide the Lender an executed City Deed of Trust in the form attached as Exhibit D giving the Lender a security interest in the Property. The Borrower shall deliver concurrently with the execution of the City Deed of Trust, the original executed City Note in the form attached as Exhibit C, which Lender shall hold until the City Note is paid in full.

Lender shall file a UCC-1 with the California Secretary of State, a copy of which is attached as Exhibit J, giving Lender a security interest in the Improvements, personal property, and Plans and Specifications. Exhibit J is hereby incorporated into this Loan Agreement by this reference.

Concurrent with the recordation of the City Deed of Trust and the Regulatory Agreement, the Lender shall cause all previous deeds of trust to be respectively reconveyed. All of the previous promissory notes shall be canceled and returned to the Borrower. All of the previous UCC-1's shall likewise be terminated. The Regulatory Agreement is attached as Exhibit K, which is hereby incorporated into this City Loan Agreement by this reference.

As further security, Borrower agrees to assign and transfer to the City, subject to the rights of prior lien holders, its successors or assigns, all of (1) Borrower's rights in and to the Plans and Specifications, together with all amendments, modifications, supplements, general conditions and addenda thereto relating to the Project, and (2) Borrower's right, title and interest in the agreement between the Borrower and the Architect relating to the development of the Project, in the form attached as Exhibit L, which is hereby incorporated into this Loan Agreement by this reference.

1.12 PREPAYMENT OF LOAN. No prepayment penalty will be charged to Borrower for payment of all or any portion of the Loan amount prior to the end of the Loan term described herein, except in the event of a default. However, prepayment of the Loan shall not affect Borrower's obligations under the Regulatory Agreement, all of which shall remain in full force and effect for the entire term of that Regulatory Agreement, and the property shall be used meet one of the national objectives set forth in 24 CFR 570.208. In the event that the Property is disposed of in a manner which results in non-compliance with the Regulatory Agreement and/or 24 CFR 570.208, the City shall be reimbursed in the amount of the current fair market value of the Property, less any portion thereof attributable to expenditures of non-grant funds acquisition of, or improvement to, the Property.

1.13 REPAYMENT OF LOAN. On or before each Payment Date, the Borrower shall submit its audited Annual Financial Statements to the City for the preceding fiscal year together with, if any, the City's Share. Failure to do so will result in a default under this Loan Agreement. Once received on a timely basis, the City shall review and approve such financial statements and share of residual receipts, or request revisions, within ninety (90) days after receipt. In the event that the City determines as the result of its review that there is an understatement in the amount and payment of Residual Receipts

due to the City, Borrower shall promptly pay to the City its share of such understatement, but in any event, within thirty (30) days of notice of such understatement. In the event that the City determines that there is an overstatement, the City shall promptly refund the amount to Borrower within thirty (30) days of such determination.

If contested, Borrower is required to pay under protest. Borrower shall have thirty (30) days from notice of obligation to submit, in writing, any contentions to the City. If the City receives contentions in writing, the City will have thirty (30) days upon receipt to respond. If no written contentions are received by the City within the thirty (30) days, Borrower is deemed to concur with the obligation.

1.14 MAINTENANCE OF RECORDS, RIGHT TO INSPECT AND COPY.

A. The Borrower agrees to keep and maintain books, accounts, reports, files, records (including records pertaining to race, color, creed, sex and national origin of tenants and applicants; and books of original entry, source documents supporting accounting transactions, service records, general ledger, and canceled checks), and other documents relating to the receipt and disbursement of all funds and performance under this Loan Agreement and in accordance with any other implementing laws, rules and regulations, including but not limited to the applicable requirements under HOME Funds contained in 24 CFR 92.508 and CDBG Funds contained in 24 CFR 570.490 and 24 CFR 570.493. Borrower shall maintain copies of such books and records in a location that is within twenty five (25) miles of the Site. Borrower shall retain all records evidencing construction of the Project, including architectural plans and specifications and CASp reports.

B. Borrower's duty to keep and maintain documents include the following forms and reports:

1. Property Management Plan
2. Affirmative Marketing Documentation
3. Vacancy Notifications Log
4. Applicant Demographics Log
5. Proposed Media Ads
6. Lease Rental Agreement Addendum

7. Lease/Rental Agreement
8. Management Company Agreement
9. House Rules
10. Tenant Income
11. Rent Certifications
12. Tenant Income Source Documents
13. Occupancy Summary (including the race, national origin or ethnicity and disability status of applicants, households on a project waiting list and occupants)
14. Certificate of Continuing Program Compliance
15. Log of Reasonable Accommodation/Modification Requests

- C. At all reasonable times and following reasonable notice to the Borrower, any duly authorized representative of the City, the California State Auditor, Officials of HUD and the Office of the Inspector General shall have access to and the right to inspect, copy, audit, and examine all such books, records, accounts, reports, files, and other documents of the Borrower until completion of all close-out procedures and final settlement and conclusion of all issues.
- D. The Borrower shall furnish such statements, records, reports, including litigation reports, data and other information as the City may from time to time reasonably request.
- E. Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Loan Agreement. Original forms are to be maintained on file for all documents specified in this Loan Agreement. Such records shall be retained for a period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion take possession of, retain and audit said records. Records, in their original form, pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove this is granted

in writing by the City.

1.15 AUDITS & INSPECTIONS.

- A. Borrower shall make available for examination at reasonable intervals and during normal business hours to Lender all books, accounts, reports, files, and other papers or property with respect to all matters covered by these Loan Documents, and shall permit Lender to audit, examine, and make excerpts or transcripts from such records. Lender may make audits of any conditions relating to this Loan.
- B. Following reasonable notice to Borrower, at any time during normal business hours and as often as the U.S. Comptroller General, California State Auditor or the City may deem necessary, the Borrower shall make available for examination, all of its records that support all matters covered by this Loan Agreement.
- C. After commencement of drawing the Loan funds the Borrower shall conduct audits or have audits conducted on an annual basis, in accordance with the Single Audit Act, 31 USC Sec. 7501 et. seq.; City Council action dated February 4, 1987, C.F. No. 84-2259-S1 and any administrative regulations or field memos implementing revisions or updates to the audit requirements. The auditor's reports, prepared in accordance with appropriate Federal Audit Standards, and any accompanying management reports on the operation of the entity or this Loan Agreement, shall be submitted to the City within one hundred twenty (120) days after the close of the Borrower's fiscal year.
1. The audit is to be conducted annually on an organization wide basis to test the fiscal integrity of financial transactions as well as compliance with the terms and conditions of the Federal grant and this Loan Agreement.
 2. If this Loan Agreement is terminated sooner than the close of Borrower's fiscal year, either by completion of Borrower's obligations under this Loan Agreement or because of default of either party, the audit shall be immediately conducted

and submitted to the City within ninety (90) days after such termination.

3. The Borrower, no later than fifteen (15) days after receipt of the final audit report and within one hundred twenty (120) days after the close of Borrower's fiscal year, shall submit three (3) copies of the report to the Portfolio Management Section of the HCIDLA.
4. If the auditor's report or management report identifies deficiencies with internal controls, contract compliance, or cost certification, the Borrower shall prepare and submit a corrective action plan along with the auditor's reports. The plan shall address all deficiencies and provide specific details on corrective actions to be taken along with the date the action was or will be implemented. If the cost certification indicates funds were not spent in accordance with the provisions of this Loan Agreement, the Borrower shall immediately reimburse the City for all such costs and this Loan Agreement shall be immediately terminated.

D. The City, California State Auditor, the U.S. Comptroller General shall have the authority to audit, examine and make excerpts or transcripts from records, including contracts, invoices, participant records and other records supporting this Loan Agreement.

E. Subject to approval by Lender, Borrower may request the annual review to occur at the same time as the annual review for any other program on the project ("Mass Recertification Date").

1.16 RESIDUAL RECEIPTS.

A. Residual Receipts shall be distributed as follows:

1. City shall receive an amount equal to fifty percent (50%) of Residual Receipts of the Project,
2. Borrower shall receive an amount equal to fifty percent (50%) of Residual Receipts of the

Project.

- B. Residual Receipts calculations shall be on a cash basis.
- C. The City's Share shall be applied first to pay current annual interest due, then the cumulative interest owed, and then to reduce the principal amount of the Loan. Upon payment in full of the Loan, City shall have no further right to payment of any portion of Residual Receipts.
- D. The term of the Loan shall be twenty (20) years from the date of the City Note, which repayment date may be extended at the sole discretion of Lender if any portion of the Loan remains unpaid. Unless paid in full earlier, the remaining balance of the Loan shall be due and payable in full at the expiration of the term of the Loan.

1.17 ANNUAL OPERATING EXPENSES. The line items for Operating Expenses to be charged to the Project shall be consistent with those that are listed in the Operating Expenses definition of this Loan Agreement. The monthly or annual set asides for the Operating Reserve Fund and the Replacement Reserve Fund shall not be part of Operating Expenses.

1.18 OPERATING RESERVE FUND.

- A. Borrower shall establish an interest bearing account (i.e. Treasuries, Government-insured investments, or a combination thereof) designated by the City as a reserve fund to be known as the Operating Reserve Fund for the 1010 Jefferson. On or before the close of permanent financing for the project, Borrower shall deposit into the account not less than Zero Dollars (\$0.00).
- B. Funds shall be invested subject to the prior written approval of the City and any earnings shall become and remain a part of the Operating Reserve Fund. Funds may be withdrawn only when Revenue is insufficient to pay Operating Expenses. The Borrower shall not draw funds from the Operating Reserve Fund without the prior written approval of the City. Any deficit in the reserve at the end of the year due to City

approved withdrawals is to be funded in subsequent years from available cash flow to the extent that there are sufficient funds available from Revenue pursuant to the priority listed in Exhibit B, Section 46 Residual Receipts. Borrower shall be under no obligation to fund the Operating Reserve Fund deficit from other sources of funds are not available after the payment of all Operating Expenses.

- C. In the event of a failure by Borrower to pay City's Share to the Lender pursuant to the terms of this Loan Agreement, the Regulatory Agreement, City Note, or City Deed of Trust or if the Borrower defaults under the City Note, Regulatory Agreement, or City Deed of Trust, pursuant to which event the principal amount of the Loan may be accelerated, the City may, after delivery of notice to Borrower and the expiration of any applicable cure periods, apply the funds in the Operating Reserve Fund to the amount then due under the City Note, or use such funds for the continued operation of the Improvements.
- D. The Operating Reserve Fund was established as a condition to receiving the Loan for the benefit of the Lender and the Borrower.

1.19 REPLACEMENT RESERVE FUND.

- A. On the first Payment Date, Borrower shall establish an interest bearing account (i.e. Treasuries, Government-insured investments, or a combination thereof) designated by the City as a reserve fund to be known as the Replacement Reserve Fund for the 1010 Jefferson. On the first Payment Date and annually thereafter on the Payment Date the Borrower shall deposit Zero Dollars (\$0.00). Notwithstanding the previous sentence, Borrower shall only be required to fund the Replacement Reserve Fund to the extent that there are sufficient funds available after the payment of all Operating Expenses. Borrower shall be under no obligation to fund the Replacement Reserve Fund from other sources of funds are not available after the payment of all Operating Expenses.
- B. Funds shall be invested subject to the prior written approval of the City and any earnings shall become and

remain a part of the Replacement Reserve Fund. Funds may only be drawn to replace or maintain the Improvements or personal property which has been depreciated on the Borrower's Tax Return, filed with the Internal Revenue Service. The Borrower shall not draw funds from the Replacement Reserve Fund without the prior written approval of the City.

- C. In the event of a failure by Borrower to pay City's Share to the Lender pursuant to the terms of this Loan Agreement, the Regulatory Agreement, City Note, City Deed of Trust, or if the Borrower defaults under the City Note, Regulatory Agreement, or City Deed of Trust, pursuant to which event the principal amount of the Loan may be accelerated, the City may, after delivery of notice to Borrower and the expiration of any applicable cure periods, apply the funds in the Replacement Reserve Fund to the amount then due under the City Note or use such funds for the continued operation of the Improvements.
- D. The Replacement Reserve Fund was established as a condition to receiving the Loan for the benefit of the Lender and the Borrower.

1.20 TITLE AND TITLE INSURANCE. Borrower warrants that it shall obtain and maintain good and marketable title to the Property. As a condition for closing the Loan, Borrower shall obtain an ALTA lender's policy of title insurance naming Lender as the insured with liability not less than the principal amount of the Loan, issued by an insurer satisfactory to Lender, excepting only such defects, liens, encumbrances, and exceptions as are approved by Lender, and containing such endorsements as Lender may reasonably require.

1.21 RECORDING. Upon closing date, if applicable, Escrow Holder shall record the Regulatory Agreement, and City Deed of Trust with the Recorder for the County of Los Angeles, and shall deliver conformed copies of the recorded documents to the Lender and Borrower.

1.22 TRANSFER OF PROPERTY. During the term of this Loan Agreement, Borrower has not made or created, and shall not make or permit any sale, assignment, conveyance, lease, or other transfer of this Loan Agreement, the Project, or the Property, or any part thereof, including the sale of any general or

limited partnership interests, without the prior written consent of Lender.

The Loan shall be due and payable immediately if the Project, or any portion thereof or interest therein, is sold, transferred, assigned or refinanced otherwise than in accordance with this Loan Agreement. Leases in accordance with this Loan Agreement shall not be in violation of this Loan Agreement. However, upon City's approval of purchaser, this Loan will be fully assumable by said purchaser.

Lender shall give its consent to a sale, transfer, or conveyance provided that all of the following conditions are met: (a) Borrower is in compliance with the Loan Documents, or the sale, transfer, or conveyance will result in the cure of any existing violations of the Loan Documents; (b) the transferee agrees to assume all obligations of Borrower imposed by the Regulatory Agreement and the other Loan Documents and enter into such an agreement ("Assumption Agreement"); (c) the transferee demonstrates to Lender's satisfaction that it is capable of and intends to own and operate the Property in full compliance with the Regulatory Agreement and the other Loan Documents; (d) the terms of the sale, transfer, or conveyance shall not jeopardize Lender's security interest in the Property and is in full compliance with all standards, including eligibility requirements and other conditions imposed by any funding sources for the Project and the Loan; (e) the transferee is not in default on any other obligations; and (f) such other conditions as Lender may reasonably impose in Lender's sole discretion.

1.23 ENCUMBRANCE OF PROPERTY. Except as otherwise provided in this Loan Agreement, prior to the completion of the Project as evidenced by the recordation of a Notice of Completion, Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of Lender. Until issuance of the Notice of Completion, Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of Borrower or otherwise.

A. The following liens and encumbrances, subject to Lender's conditions for subordination of the City Deed of Trust and/or Regulatory Agreement, have been approved by Lender as allowable encumbrances to the City Deed of Trust and/or Regulatory Agreement:

1. General ad valorem real property taxes not yet due and payable.
2. Easements, Special Assessments, etc.
3. Deeds of Trust in the amounts and priority, as specified in Exhibit F, Method of Financing.

B. The Borrower shall provide notice to its other lenders of the Lender's requirements for any subordination of the City Deed of Trust and/or Regulatory Agreement. If Lender is requested to subordinate the City Deed of Trust and/or Regulatory Agreement, any request shall be subject to, but not limited to, the following terms:

1. The subordinated amount, including any additional advances, shall not exceed the amount authorized by the Los Angeles City Council and is subject to HCIDLA policies and approvals.
2. Upon a default under the senior loan documents, senior lender and Borrower shall provide Lender written notice giving Lender an additional thirty (30) days prior to the senior lender filing a notice of default with the Los Angeles County Recorder's Office.
3. Upon a default under the senior loan documents, senior lender shall give Lender a right to purchase the Property from the Borrower, at any time after the default under the senior loan documents but prior to a foreclosure sale.
4. Upon the purchase of the Property by the Lender, the senior lender shall permit the Lender to assume the Borrower's obligations under the senior loan under the original terms and conditions.

5. There shall be no material modification of the senior loan documents without the prior written consent of Lender, which consent will not be unreasonably withheld or delayed.
6. Senior lender agrees that it will not modify the senior loan so as to: a) increase the principal amount of the loan, b) increase the interest rate, c) decrease the term, or d) permit substitution of the security collateral, without the prior written consent of Lender.

ARTICLE 2. DEVELOPMENT OF PROJECT

2.1 LOCAL, STATE AND FEDERAL LAWS.

A. The Borrower shall carry out the administration of this Loan Agreement and the construction and operation of the Project, in conformity with all applicable laws, including, but not limited to the following applicable federal and state laws, as may be amended from time to time:

1. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §3601, et seq and implementing regulations at 24 C.F.R. Part 100, et seq, including, without limit, the design and construction requirements set forth in 42 U.S.C. §3604(f)(3) and the corresponding rules of HUD.
2. Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 C.F.R. Part 107.
3. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and regulations at 24 C.F.R. Part 1; and its implementing regulations and as applied through Executive Order No. 13166, entitled "Improving Access to Services for Persons with Limited English Proficiency" ("LEP"), which requires recipients

of federal funds, including Borrower, to take reasonable steps to insure meaningful access to its programs and activities by persons with LEP as more fully described in HUD's final guidance contained in Federal Register, Volume 72, No. 13.

4. Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. 2000e.
5. Title IX of the Education Amendments of 1972, as amended (20 USC §1681-§1683, and §1685-§1686).
6. Drug Abuse Office and Treatment Act of 1972, P.L. 92-255, as amended, relating to nondiscrimination on the basis of drug abuse.
7. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616 as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
8. Public Health Service Act of 1912, 42 USC 290 dd-3 and 290 ee-3, as amended, relating to confidentiality of alcohol and drug abuse patient records.
9. Genetic Information Nondiscrimination Act of 2008 (GiNA) P.L. 110-233
10. The Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and implementing regulations at 24 CFR Part 146.
11. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 and implementing regulations at 24 C.F.R. Part 8, including the design and construction requirements of the Uniform Federal Accessibility Standards or any other applicable or successor design and construction requirements.
12. Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157.

13. Americans With Disabilities Act 42, U.S.C. 12101 *et seq.*, its implementing regulations at 24 CFR part 8, and the Americans with Disabilities Amendments (ADAAA) Pub. L. 110-325 and all subsequent amendments.
14. Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40.
15. Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4826 and implementing regulations at 24 CFR Part 35.
16. Executive Order 12372 and implementing regulations at 24 CFR Part 52.
17. Flood Disaster Act of 1973, 42 U.S.C. 4001, *et seq.*
18. Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271, *et seq.*
19. Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*
20. Drug Free Workplace Act of 1988, 41 U.S.C. 701, 28 C.F.R. Part 67; California Drug-Free Workplace Act of 1990, California Government Code Section 8350-8357.
21. Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, 42 U.S.C. 4601, *et seq.* and 24 CFR Part 42.
22. Office of Management and Budget ("OMB") Circulars: 2 C.F.R. Part 200, *et seq.*, which provisions supersede OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); and OMB Circular A-133 (Audits of States, Local

Governments, and Non-Profit Organizations).

23. Hatch Act, 5 U.S.C. 1501-1508 and 7324-7328
 24. Copeland Act, 40 U.S.C. 276c and 18 U.S.C. 874
 25. Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-333.
 26. Federal Fair Labor Standards Act, 29 U.S.C. 201
 27. Pursuant to California Government Code Section 16645, *et seq*, none of the funds shall be used to promote or deter Union/Labor organizing activities.
 28. California Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 *et seq.* and specifically Sections 11165.7, 11165.9, and 11166.
 29. Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, EO 11593, and the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469A-1 *et seq.*
 30. Project requirements in 92 C.F.R. Part 92, Subpart F, as applicable in accordance with the type of project assisted under HOME Funds.
 31. The Housing and Community Development Act of 1974, 42 U.S.C. 5301, *et seq.*
 32. Uniform Administrative requirements in 24 C.F.R. Part 84 and as described in OMB Circular A-122.
 33. Community Housing Development Organization requirements in 24 C.F.R. Sections 92.300, 92.301 and 92.303.
 34. Eligible Community Development Block Grant Program activities under 24 C.F.R. Sections 570.200-570.207.
- B. Borrower must comply with Public Law 103-227, Part C-- Environmental Tobacco Smoke, also known as the Pro-

Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or indirectly or through State and local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds and portions of facilities used for inpatient drug and alcohol treatment. Borrower further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.

- C. Borrower acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the City under the False Claims Act (Cal. Gov. Code §§12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claims.

- D. The Borrower shall carry out the construction and operation of the Project in conformity with all applicable laws and the requirements of the City, including all applicable federal, state and local labor standards. The Borrower shall be responsible for complying with all applicable City, County and State building codes, and planning and zoning requirements, and shall take all necessary steps so that the development of the Property and the construction, use, operation, and maintenance of the Project thereon in accordance with the provisions of this Loan Agreement shall be in conformity with applicable zoning and General Plan requirements, and that all applicable environmental mitigation measures and other requirements shall have been complied with.

2.2 **NONDISCRIMINATION.** Borrower shall not discriminate or segregate in the development, construction, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of

the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual orientation, gender identity/expression, transgender status, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC) acquired or perceived, or any other arbitrary basis. Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination in housing.

2.3 **RELOCATION.** If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, Borrower shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. If applicable, Borrower shall submit to Lender the relocation plan for review and approval. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws, as applicable, including but not limited to the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655, as contained in 49 CFR Part 42; Section 104(d) of the Housing and Community Development Act of 1974 as contained in 24 CFR Part 42; HOME Funds relocation requirements as contained in 24 CFR 92.353; and CDBG Funds relocation requirements as contained in 42 U.S.C. 5304(d), 24 CFR 570.606, and 24 CFR 570.457.

2.4 **CONSTRUCTION RESPONSIBILITIES.** Borrower shall be solely responsible for all aspects of Borrower's conduct in connection with the Project, including, but not limited to, the quality and suitability of the Plans and Specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by Lender with reference to the Project is solely for the purpose of determining whether Borrower is properly discharging its obligations to Lender under this Loan Agreement, and should not be relied upon by Borrower or by any third parties as a warranty or representation by Lender as to the quality of the design or construction of the Project, or any other compliance with any applicable law or regulation or the requirements of any other department, agency or entity.

Borrower shall promptly provide the following information to Lender during the construction period and thereafter, which shall include but not be limited to, information relative to changes in the Project budget as specified in Exhibit E, income, expenses, occupancy, relocation expenses, contracts, and the operations and conditions of the development. Additionally, Borrower shall receive Lender's written consent before initiating any and all change orders and changes to the Project budget, to which the consent of the conventional lender is required.

2.5 ENVIRONMENTAL ASSESSMENT REPORT. To the extent that environmental review under the California Environmental Quality Act (CEQA), Public Resources Code Section 2100 *et seq.*, is required with respect to activities under this Loan Agreement, the City shall review such report or document. The Borrower shall provide all information, assistance, and cooperation necessary to prepare such report or document. The Borrower warrants that it has not and shall not take any action which might have a material adverse environmental effect, limit the choices among competing environmental alternatives, or alter environmental premises upon which the City's environmental findings are based. The Borrower agrees not to undertake any activity having a potential adverse environmental effect until such time as the City has advised the Borrower that it has completed an environmental assessment of the Project and received a clearance in accordance with the National Environmental Protection Act, provided the project involves federal funds.

2.6 PLANS AND SPECIFICATIONS. Borrower shall develop the Project in accordance with the Plans and Specifications. Pursuant to Exhibit M, the Schedule of Performance, Borrower shall submit to Lender for its review and approval the final Plans and Specifications for development of the Project. Exhibit M is hereby incorporated into this Loan Agreement by reference. Borrower shall develop the Project in substantial conformance with the Plans and Specifications and any modifications thereto approved by Lender. Modifications involving a change in the number of units, affordability, unit mix, unit size, the number, location, designation and design of accessible units, and/or construction methods and materials does not constitute substantial conformance with the Plans and Specifications. Any such modification would result in a default under this Loan Agreement, unless approved in writing by Lender.

Pursuant to Section 1.11 Collateral, as additional security, Borrower shall execute the Assignment of Architect's Contract and Plans and Specifications and Permits in the form attached to this Agreement as Exhibit L.

2.7 **WORK WRITE-UP.** If applicable, before commencement of construction, Borrower shall submit to Lender for its review and approval the final Work Write-Up for rehabilitation of the Improvements. Borrower shall develop the Improvements in full conformance with the Work Write-up and any modifications thereto approved by Lender.

2.8 **CONTRACTS AND SUBCONTRACTS.** All construction work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Borrower shall have a current City of Los Angeles Business License.

Unless otherwise approved by Lender, to ensure that all costs incurred are reasonable and appropriate, all contracts entered into for construction shall be the result of competitive bids pursuant to Final Plans and Specifications.

All costs incurred in the construction and operation of the Project shall be the responsibility and obligation solely of Borrower.

2.9 **PREVAILING WAGES.** The Borrower shall and shall cause the contractor and subcontractors to pay prevailing wages in the construction of the Improvements as those wages are determined pursuant to Labor Code Sections 1770-1781 and implementing regulations of the Department of Industrial Relations and comply with the other applicable provisions of Labor Code Sections 1720 et seq and implementing regulations of the Department of Industrial Relations, if applicable. The Borrower shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Sections 1770-1781. Copies of the currently applicable current per diem prevailing wages are available from the City of Los Angeles Housing and Community Investment Department, 1200 W. 7th Street, 8th Floor, Los Angeles, California 90017. During the construction of the Improvements, Borrower shall or shall cause the contractor to post at the Property the applicable prevailing rates of per diem wages. Borrower shall indemnify, hold

harmless and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq. and implementing regulation or comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with construction of the Improvements or any other work undertaken or in connection with the Property.

The Borrower shall and shall cause the contractors and subcontractors to submit data and documents related to Prevailing Wage by 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 Hundredth Percent (0.03%) of the total construction cost to be paid in full within 30 days from the execution of this Agreement.

2.10 DAVIS-BACON ACT. Borrower shall and shall cause the contractor and subcontractors to comply with the requirements of the Davis-Bacon Act pursuant to 40 U.S.C.S. 3141-3148 and implementing regulations, if applicable. All workers performing construction work for the Project employed by Borrower or by any contractor or subcontractor shall be compensated in an amount no less than the wage rate determined by the U.S. Labor Department pursuant to the federal Davis-Bacon Act and implementing rules and regulations. Borrower shall comply with all reporting and recordkeeping requirements of the applicable statutes and regulations. During the construction of the Improvements, Borrower shall or shall cause the contractor to post at the Property the applicable prevailing rates of per diem wages. Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to 40 U.S.C.S. 3141-3148 and implementing regulations or comply with the other applicable provisions of 40 U.S.C.S. 3141-3148 and implementing regulations in connection with construction of the Improvements or any other work undertaken or in connection with the Property.

The Borrower shall and shall cause the contractors and subcontractors to submit data and documents related to Davis Bacon by 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 Hundredth Percent (0.03%) of the total construction cost to be paid in full within 30 days from the execution of this Agreement.

2.11 CONSTRUCTION BONDS. Borrower shall require its contractor to procure and deliver to Lender copies of labor and material (payment) bonds and performance bonds, or a dual bond which covers both payment and performance obligations, with respect to the construction of the Project as follows:

- A. If the cost of construction is under One Hundred Thousand Dollars (\$100,000), the bonding requirement is at the election of the City. If the City determines that bonding is required, Borrower shall procure a performance bond in a penal sum of not less than one hundred percent (100%) of the scheduled cost of construction, and a payment bond in a penal sum of not less than one hundred percent (100%). If Borrower is unable to obtain said bonds, Lender will accept an irrevocable letter of credit equal to twenty five percent (25%) of the construction contract amount, in the sole name and possession of Lender in a form and substance acceptable to Lender; or a cash bond (certificate of deposit) equal to twenty percent (20%) of the construction contract amount, in the sole name and possession of Lender in a form and substance acceptable to Lender, in lieu of said bonds.

- B. If the cost of construction is equal to or greater than One Hundred Thousand Dollars (\$100,000), Borrower shall procure a performance bond in a penal sum of not less than one hundred percent (100%) of the scheduled cost of construction, and a payment bond in a penal sum of not less than one hundred percent (100%). In lieu of Borrower's inability to obtain said bonds, Borrower may obtain a twenty five percent (25%) irrevocable letter of credit, in the name of Borrower and Lender and in possession of Lender in a form and substance acceptable to Lender; or a cash bond (certificate of deposit) equal to twenty percent (20%) of the construction contract amount, in the sole name and possession of Lender in a form and substance

acceptable to Lender.

Said bonds should be issued by an insurance company which is licensed to do business in California and has a rating equivalent to AAA or AA+ by Standard and Poor's or Moody's. The labor and materials (payment) bond should name Lender as a co-obligee or assignee.

Lender's consent to allow an irrevocable letter of credit or certificate of deposit is subject to Borrower, bank (providing the irrevocable letter of credit or certificate of deposit), and Lender entering into an agreement providing control of the collateral pursuant to the California Commercial Code Section 9314. If Borrower obtains an irrevocable letter of credit or certificate of deposit pursuant to this section, Lender shall file a UCC-1 with the California Secretary of State, a copy of which is attached in Exhibit J, giving Lender a security interest in the irrevocable letter of credit or certificate of deposit. Exhibit J is hereby incorporated into this Loan Agreement by this reference.

2.12 CITY AND OTHER GOVERNMENTAL AGENCY PERMITS.

- A. Before commencement of any work on the Project, the Borrower shall secure or shall cause to be secured, and at all times maintain, any and all permits, licenses, approvals and reviews which may be required by the City or any other governmental agency for the Borrower's performance hereunder. The Borrower shall pay such fees as may be required in connection therewith. The Borrower shall immediately notify the City of any suspension, termination, lapses, non-renewals or restrictions of licenses, certificates, or other documents.

- B. The Project shall be developed in accordance with applicable State and Local building codes or, in the absence of such codes, in accordance with a nationally recognized model building code.

2.13 COMMENCEMENT OF CONSTRUCTION. Borrower shall begin construction of the Project in accordance with Exhibit M, the Schedule of Performance. Construction shall not commence unless Borrower has submitted and Lender has approved a certification from a certified access specialist or another qualified individual approved by Lender stating that the design documents

and all final plans and specifications comply with the design and construction requirements set forth in Section 2.15 of this Agreement. Borrower shall not commence construction until Lender has issued a written notice to proceed. Lender shall authorize the issuance of a notice to proceed when all construction requirements have been met, including, but not limited to the submission and approval of the following:

- A. All design documents, including final plans and specifications, scope of work and/or a physical needs assessment and CASp report certifying that the Project is in compliance with 540/ADA regulations.
- B. All of the necessary permits and licenses required to begin the development of the Project.
- C. All environmental documents, including but not limited to lead base paint and asbestos reports, soils reports, Phase I reports, and termite reports, if applicable.
- D. Environmental clearance from HUD approving the use of the City's funds for the development of the Project.
- E. The construction contract(s) shall be awarded through a bidding process approved by HCIDLA's construction services unit. Borrower shall have completed and delivered a bid package, obtained by the City's Construction Services Unit. However, if at the time of application for funds under the AHTF, the general contractor had been selected and identified as a member of the development team, the developer/general contractor must provide a minimum of three (3) sub-bids of each major trade including but not limited to site work, concrete, carpentry, drywall, plaster, mechanical, electrical and plumbing.
- F. A final executed construction contract satisfactory to Lender as listed in Exhibit M, the Schedule of Performance. General contractors will be required to use a guaranteed maximum price contract wherein the basis for payment is the cost of the work plus a fee. The construction contract is to include an overall cost limitation of fourteen percent (14%) of the cost of construction which shall apply to builder overhead, profit, and general requirements, excluding builder's

general liability insurance. For purposes of calculating builder overhead and profit, the cost of construction includes offsite improvements, demolition and site work, structures, prevailing wage, and general requirements. For purposes of calculating general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wage. All construction contracts shall clearly state that the sharing of cost savings which are above and beyond the maximum fourteen percent (14%) of the cost of construction for builders overhead, profit and general requirements are not allowed under said contracts. All contracts and subcontracts shall include provisions requiring the contractor to comply with the requirements of all federal, state and local laws, including without limit the applicable requirements set forth in Section 2.1.A.

- G. Borrower has delivered a construction schedule satisfactory to Lender.
- H. All bonds and insurance requirements required to begin the development of the Project.
- I. Copies of a valid and current city business license for the prime contractor and sub-contractors.
- J. All required documentation regarding affirmative action, equal employment and minority/women's business enterprises as required in Article 4 of this Loan Agreement.
- K. A list of the prime contractor and all sub-contractors.
- L. Borrower shall have submitted for Lender's review and approval the final development cost budget, as specified in Exhibit F of this Loan Agreement. This budget shall be approved by all lenders. The total development costs, developer fee and contractor's overhead and profit shall not differ by more than 10% from the amount in the Borrower's application for financing without prior HCIDLA approval.

2.14 **LEAD-BASED PAINT AND ASBESTOS REMOVAL.** Borrower and its contractors and subcontractors shall remove, encapsulate, or enclose lead and asbestos hazardous materials as provided for by Federal Regulations 24 C.F.R., 29 C.F.R., 40 C.F.R., Title X, California O.S.H.A., California health codes, and all city standards; and shall not use lead-based paint and asbestos in its rehabilitated or reconstructed units and shall not use lead-based paint or asbestos in the construction or maintenance of the Property. Borrower shall incorporate or cause to be incorporated this provision in all contracts and subcontracts for work performed on the Property which involve the application of paint or removal of asbestos.

- A. Any owner of a pre-1978 building who receives HCIDLA assistance for demolition and/or rehabilitation will be given a list of trained, certified lead-based paint and asbestos contractors from which to select a firm for assessment of the hazardous materials in the building.

- B. A qualified contractor certified by the State of California and properly licensed will be hired to do the assessment. If lead-based paint and/or asbestos is found, the contractor will prepare an abatement plan. Said plan, upon review and approval, shall be implemented. The hazardous material testing process, test results and the abatement plan will be monitored and enforced through HCIDLA inspection during the course of work. The actual rehabilitation activity (Improvements) regarding hazardous materials may only be done by State of California certified supervisors and workers. All such work must be completed, required documentation provided, and pass clearance testing before any progress payments can be released.

2.15 **DESIGN AND CONSTRUCTION.** The Project shall be developed and the Property shall, at all times during the term of this Agreement, be maintained to comply with all applicable federal, state, and local design and construction requirements for accessibility, including but not limited to Americans with Disabilities Act as amended, 42 USC §12101 et seq., and its implementing regulations at 28 CFR Parts 35 and 36 (ADA), Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794 and the implementing regulations at 24 CFR Parts 8the Fair Housing Act as amended, 42 U.S.C. 3601, et seq and its implementing regulations at 24 CFR Parts 100 and any

requirements of the City.

2.16 FAITH-BASED ORGANIZATIONS. Any organization that engages in inherently religious activities must allocate its costs so that HOME funds are used only for eligible HOME activities. Faith-based organizations may retain its independence to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that HOME Funds are not used to financially support inherently religious activities. Faith-based organizations must follow all requirements of 24 CFR Part 92, including 24 CFR 92.257 and HUD CPD Notice 04-10.

- A. HOME funds may not be used to acquire or improve sanctuaries, chapels, or any other room that faith-based entities, receiving HUD funds, use as their principal places of worship.
- B. Borrower and any of Borrower's agents must serve all beneficiaries and potential beneficiaries without regard to religion, may not restrict HOME-assisted housing to people of a particular religion or religious denomination, and may not impose an eligibility requirement relying on the applicant's participation in religious activities or programs supported by the religious organization.

2.17 INSPECTIONS. Borrower shall permit and facilitate, and require its contractors to permit and facilitate, observation and inspection at the job site by Lender and by public authorities during reasonable business hours for the purposes of determining compliance with this Loan Agreement.

2.18 ADDITIONS OR CHANGES IN WORK. Lender must be notified in a timely manner of any changes in the work required to be performed under this Loan Agreement, including any additions, changes, or deletions to the approved Plans and Specifications. A written change order authorized by Lender must be obtained before any changes, additions, or deletions in work for the Project are performed. Consent to any additions, changes, or deletions to the work shall not relieve or release Borrower from any other obligations in the Loan Documents, or relieve or release Borrower or its surety from any surety bond.

2.19 MECHANICS LIENS AND STOP NOTICES. If any claim of lien is filed against the Property or a stop notice affecting

the Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within twenty five (25) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to Lender a surety bond in sufficient form and amount, or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice will be paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender, or title company, the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. Lender may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

Borrower shall file a valid notice of cessation or notice of completion upon cessation of construction on the Project for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

2.20 COMPLETION OF CONSTRUCTION AND IN-SERVICE DATE. Following commencement of construction, Borrower shall diligently perform construction of the Project to completion as evidenced by the recording of the Notice of Completion.

Borrower shall submit within sixty (60) days after issuance of the Certificate of Occupancy, a complete audit of the construction costs by an independent certified public accountant.

2.21 SCHEDULING AND EXTENSIONS OF TIME. Borrower shall coordinate and schedule the work to be performed according to the Schedule of Performance, attached as Exhibit M, so that commencement and completion of construction will take place in accordance with the provisions of this Loan Agreement. Lender may extend the time for completion in writing in its sole and

absolute discretion. Any time extension granted to Borrower to enable Borrower to complete the work shall not constitute a waiver of any other rights Lender has under the Loan Documents.

2.22 **EXCUSABLE DELAYS.** In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

The time for performance of provisions of this Loan Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Loan Agreement which is caused by circumstances deemed to be beyond the control of the parties as defined in the previous paragraph. An extension of time for any of the above specified circumstances will be deemed granted only if written notice by the party claiming such extension is sent to the other party within ten (10) calendar days from the commencement of the cause, and such extension of time is either accepted by the other party in writing, or is not rejected in writing by the other party within ten (10) calendar days of receipt of the notice. In any event, construction of the Project must be completed no later than ninety (90) calendar days after the scheduled completion date specified herein, any excusable delay notwithstanding. Times of performance under this Loan Agreement may also be extended for any cause and for any period of time by the mutual written agreement of Lender and Borrower.

2.23 **NOTICE OF COMPLETION.** Upon completion of development of the Project, Borrower shall submit a certification from the architect for the Project stating that the Improvements to the Property have been made in substantial accordance with the Plans and Specifications and/or work write-up, and the terms of the Loan Documents including but not limited to certification that

the Improvements to the Property comply with all conditions imposed by the Americans with Disabilities Act, 42 USC §12101 *et seq.*, and its implementing regulations (ADA), the Americans with Disabilities Amendments Act of 2008, Pub. L. 110-325 (ADAAA) and all subsequent amendments (including 28 CFR parts 35 and 36), Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794 and 24 CFR Parts 8 (Rehab Act), 24 CFR, Part 40, and the Fair Housing Act, 42 U.S.C. 3601, *et seq.*; 24 CFR Parts 100, 103, and 104 (FHA) and all implementing regulations. Borrower shall furnish Lender with a report from CASp, or another qualified individual approved by HCIDLA, certifying that the Project as constructed is in accordance with 504/ADA regulations. Borrower shall furnish Lender a copy of the Notice of Completion for the full Project or a phase of the project, as the case may be, no later than ten (10) days after recordation with the County of Los Angeles, upon the occurrence of the following, (1) final approval on all City and other governmental permits; (2) a determination by Lender that Borrower has completed the Project in substantial conformance with industry standards and the Plans and Specifications and/or work write-up; (3) completion of a cost certification reviewed and approved by an independent Certified Public Accountant ("CPA"); and (4) a determination by Lender that Borrower has satisfied all of Borrower's development obligations under this Loan Agreement. The Notice of Completion shall be in a recordable form acceptable to Lender. If Borrower fails to provide the Notice of Completion within the specified time, it shall provide Lender with a written statement indicating in what respects Borrower has failed to complete the construction of the Project in conformance with this Loan Agreement or is otherwise in violation of the terms of the Loan Documents, and what measures Borrower will need to take or what standards it will need to meet in order to obtain the Notice of Completion. If and when Borrower has taken the specified measures or met the specified standards, and is not otherwise in violation under the Loan Documents, Borrower shall deliver the Notice of Completion to Lender.

2.24 QUALITY OF WORK. Borrower shall construct and maintain the Project in conformance with the City's construction standards and shall employ building materials of a quality suitable for the requirements of the Project. Borrower shall develop the Project in full conformance with applicable local, state, and federal statutes, regulations, and building and housing codes including but not limited to the design and construction requirements of the Americans with Disabilities Act as amended, 42 U.S.C. §12101, *et seq.* and its implementing

regulations at 28 C.F.R. Parts 35 and 36 (ADA), Section 504 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794 and the implementing regulations of HUD at 24 C.F.R. Part 8, the Fair Housing Act as amended, 42 U.S.C. §3601, et seq and its implementing regulations at 24 C.F.R. Part 100 and any requirements of the City.

2.25 **RECORDS.** Borrower shall be accountable to Lender for all funds disbursed to Borrower pursuant to the Loan Documents. Borrower agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures drawn from Loan funds, and to keep all invoices, receipts, and other documents related to expenditures from said Loan funds for not less than five (5) years after completion of the Project as evidenced by the recording of a Notice of Completion. Records must be kept accurate and current. Lender shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency in the records specified by Lender in said notice, or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Borrower shall promptly comply with all requirements or conditions of the Loan Documents relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly supply, upon the request of Lender, any and all information and documentation which involves the Project and cooperate with Lender in the development of the Project.

ARTICLE 3. PROJECT OPERATION

3.1 **FEES, TAXES, AND OTHER LEVIES.** Borrower shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences

of the contest being unsuccessful.

3.2 **OBLIGATION TO REFRAIN FROM DISCRIMINATION.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, sex, sexual preference or orientation, gender identity/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency (AIDS), acquired or perceived, familial status and handicap, pregnancy, childbirth or related medical condition, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project, or any part therefor, nor shall the Borrower or any person claiming under or through, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, licenses or vendees of the Project.

3.3 **MANAGEMENT OF PROJECT.** Borrower and Borrower's agents shall lease, operate and manage the Project after completion in full conformance with the terms of the Regulatory Agreement and the following:

- A. The City shall have the right to review, modify and approve Borrower's Management Plan for the development and compliance with the restrictive covenants of this Loan Agreement and Regulatory Agreement. Borrower acknowledges that it has received a copy of an example of a property management plan that meets the HCIDLA requirements.
- B. At all reasonable times and following reasonable notice to the Borrower, the City shall have the right to review the performance of Borrower's management of the Project.
- C. Except where a delegation of duties is specifically permitted by this Loan Agreement, Borrower shall not delegate any or all of its management duties on the Project without the prior written approval of the City, which approval shall not be unreasonably withheld.

- D. If Borrower is permitted to delegate its management duties, Borrower shall be responsible to:
1. Immediately submit information regarding any change in the structure of the management company that was approved by the City;
 2. Annually submit financial statements (such as K1 forms) of the management company to the City;
 3. Maintain annual compliance with this Loan Agreement; and
 4. Upon request by City, immediately produce current tenant information for compliance with Exhibit N, which is hereby incorporated into this City Loan Agreement by this reference.
- E. Any authorized delegation of management duties for the Project, shall not be deemed to relieve the Borrower from any obligations under this Loan Agreement or Regulatory Agreement.

3.4 OPERATION OF PROJECT. Borrower and Borrower's agents shall lease, operate and manage the Project after completion in full conformance with the terms of the Regulatory Agreement.

Borrower shall agree to: (1) maintain and operate the Assisted Units so as to provide decent, safe, and sanitary housing; and (2) provide the Assisted Units with the same level of services (including security), amenities, and maintenance as are applied to the other dwelling units on the Project. Amenities that are provided to non-assisted unit households include, but are not limited to, access to recreational facilities, parking, cable TV, and interior amenities. Optional services provided must be available to all residents under the same terms and conditions. All incentives such as rent specials must be offered to all new residents, not only residents of non-assisted units. Borrower is prohibited from charging fees that are not customarily charged in rental housing in that housing area. Borrower must ensure that any fee charged to a tenant or prospective tenant is reasonable, customary, and complies with 24 CFR 92.504(c)(3)(xi).

Borrower agrees that during the term of the Regulatory Agreement, HCIDLA shall have the right to review, approve and

request changes to the Property Management Plan, operation of the building and Property management entity, in order to preserve the affordability, physical appearance and condition of the Project.

3.5 **DESIGNATED ASSISTED UNITS.** Borrower must comply with all rules and regulations of each funding source. In compliance with 24 CFR 92.252(j), at the time of the execution of this agreement, the Borrower must designate the HOME assisted units as fixed or floating HOME units. The address or unit number of the HOME-restricted units must be specified and reported to the Lender at the time of initial occupancy. Fixed units remain as the same unit throughout the period of affordability. Floating units may change from comparable unit to comparable unit in order to maintain conformity with HOME Regulations Section 92.252. If the rental housing project has floating HOME units, the Borrower must provide the Lender with information regarding unit substitution. The designated Assisted Units on the Project shall meet the following standards:

- A. Generally reflect the average number of bedrooms per dwelling unit and average square footage of non-assisted units on the Project;
- B. Be similarly constructed and of comparable quality to all other units on the Project;
- C. Be dispersed throughout the Project;
- D. Provide tenants access and enjoyment of all common areas and facilities of the Property on the same basis as tenants of other units.
- E. All accessible units in the Project shall meet the standards listed in sections A-D above.
- F. Provide tenants access and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other units.

3.6 **TENANT SELECTION.** Before leasing the Project, Borrower shall provide Lender for its review and approval Borrower's written tenant selection plan which shall be consistent with the requirements of the Lender and the rules and regulations of each funding source. Prior to leasing any unit, Borrower's tenant selection plan must, at a minimum, meet the

requirements for tenant selection set out in 24 C.F.R. 92.253(d) and any modifications thereto.

Borrower shall rent the Assisted Units to any Eligible Household according to the tenant selection plan. Borrower shall verify the prospective tenant's eligibility and require from each tenant documentation that such household's income from all sources does not exceed allowable limits as described in Exhibit N.

Borrower shall maintain and select tenants from a written waiting list in the chronological order of their application provided that accessible units shall be offered on a preferential basis to the first household on the waiting list with a family member needing the features of such a unit. Said waiting list shall also include information indicating the applicants who requested an accessible Assisted Unit. Borrower shall provide said waiting list to any subsequent owner and/or property manager. Upon a vacancy in an accessible unit, the unit shall be offered first to any resident household of the Project with a family member needing the features of the unit, then to the first household on the Project waiting list with a family member needing the features of the unit, and then to any other household on the waiting list in a manner consistent with the provisions of this Agreement. Owner shall utilize lease provisions requiring any household occupying and not needing the accessibility features of an accessible unit to move to another unit of appropriate size in the event another occupant household of the Project or an applicant household needs the features of the accessible unit.

Borrower shall give priority for Assisted Units to Qualified Households who have been displaced as a result of the City of Los Angeles' public projects.

Borrower shall require each prospective tenant to certify under penalty of perjury that they are not (a) an owner, developer or sponsor of the project; (b) an officer, employee, agent, consultant or elected or appointed official of the owner, developer or sponsor; or (c) a member of the Immediate Family of such person described in subsections (a) and (b). Borrower shall not rent any unit of the Project to any of said individuals. Any exceptions shall be requested in writing and subject to consideration in accordance with applicable policies, procedures and regulations.

3.7 **INCOME CERTIFICATION.** Borrower shall limit for the full term of the Regulatory Agreement the rental of Assisted Units to Qualifying Households according to the schedule contained in Exhibit N. The income levels and other qualifications of applicants for Assisted Units shall be certified within ten (10) business days prior to the household's expected occupancy of one (1) of the units. No tenant shall occupy an Assisted Unit prior to income eligibility determination and certification by Borrower.

Upon the closing of the initial occupancy of the Project, and annually thereafter, Borrower shall provide Lender with an occupancy summary report showing the name of each tenant, unit occupied by each tenant, tenant income, rent paid, and any other information which the Lender requests and which relates to the eligibility of these households. The income will be calculated using part 5 (Section 8) definition of Income and adhere to section 24 CFR 92.252. If the household size of an Eligible Household changes, Borrower shall provide the Lender with the additional income documentation to determine eligibility. If HCIDLA determines that the Eligible Household is no longer an Eligible Household, such unit will continue to be treated as an Assisted Unit until the next available unit of comparable size on the Project is rented to a person who qualifies for an Assisted Unit.

The City may require the Borrower, at any time, to re-examine for compliance with the Affordability Restrictions and Maximum Rents (Exhibit N), the income of each tenant household and immediately submit its findings to the City.

3.8 **PROJECT RENTS.** Rents for Restricted Units shall be limited to Qualifying Rents as set forth in Exhibit N. Qualifying Households shall be given at least thirty (30) days written notice prior to any rent increase.

The maximum allowable rent that may be charged for a Restricted Unit may change from time to time when there are changes in the Area Median Income as published by HUD, or when there are changes made to the allowances deducted for tenant paid Utilities as calculated by the City of Los Angeles subject to HUD rules and regulations. In no event, however, will the resulting maximum allowable rent for a Restricted Unit Exceed the HUD fair market rents set for rental housing units of the same number of bedrooms for the area.

Any increase in rental charges must comply with the terms of the lease as to the time and manner of such changes, provided that, no Qualifying Household shall have a rent increase sooner than one (1) year after initial occupancy, and provided further, rents for Restricted Units shall not have an annual increase in excess of the percentage increase in the county median income for the applicable year in which the rent increase is being considered, nor shall there be an accumulation of rental increases from year to year for those years in which the Borrower chose not to increase rents by the percentage allowed herein.

Notwithstanding the above, rental limits on units that have been allocated low income housing tax credits by a housing credit agency pursuant to Section 42 of the Internal Revenue Code of 1989 (26 U.S.C. 42), may have their rents raised in accordance with HUD and tax credit regulations during the term of the tax credit allocation and regulatory period.

For projects subject to the City's Rent Stabilization Ordinance, the maximum rent increase allowed by that ordinance may be less or more than that allowed by changes in the Area Median Income. In such instances, the rents on restricted units may only be raised to the lesser of the two (2) allowed increases.

3.9 FORM OF NONDISCRIMINATION AND NONSEGREGATION CLAUSES.

- A. The Borrower shall refrain from restricting the rental, sale or lease of the property on the basis of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency (AIDS), acquired or perceived, familial status and handicap, pregnancy, childbirth or related medical condition. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:
1. In deeds: "The Grantee herein covenants by and for himself/herself, his/her heirs, executors, administrators and assigns, and all persons claiming under or through him/her, that there

shall be no discrimination against or segregation of, any person or group of persons on account of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency (AIDS), acquired or perceived, familial status and handicap, pregnancy, childbirth or related medical condition in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself/herself or any person claiming under or through him/her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, licenses or vendees of the land herein conveyed. The foregoing covenants shall run with the land."

2. In leases: "The lessee herein covenants by and for himself/herself, his/her heirs, executors, administrators and assigns, and all persons claiming under or through him/her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency (AIDS), acquired or perceived, familial status and handicap, pregnancy, childbirth or related medical condition in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein leased nor shall the lessee himself/herself or any person claiming under or through him/her, establish or permit any such practice or practices of discrimination or segregation with

reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein leased."

3. In contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency (AIDS), acquired or perceived, familial status and handicap, pregnancy, childbirth or related medical condition in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself/herself or any person claiming under or through him/her, establish or permit any such practice or practices of discrimination or segregation with reference to the lessees, subtenants, sublessees, or licenses vendees of the land."

3.10 LEASING THE PROJECT. Before leasing any portion of the Project, Borrower shall submit its proposed form of lease for Lender's review and approval. The term of the written Lease shall be for no less than one (1) year unless mutually agreed upon by Borrower and tenant, which shall not be for less than thirty (30) days, and shall not contain any provision nor subsequent modification thereto, which is prohibited by 24 C.F.R. Section 92.253(b) or any State or City tenant-landlord laws. Any termination of the Lease or refusal to renew must be in conformance with 24 C.F.R. 92.253(c) and any other applicable laws and must be preceded by not less than thirty (30) days written notice to the tenant by the Borrower specifying the grounds for the action.

A. Assisted Units

1. All Assisted Units shall be leased and shall not be withdrawn from the market. Assisted Units shall be rented in a manner consistent with the Space and Occupancy Standards set forth in

Chapter 5, of the Uniform Housing Code (1997) and any subsequent amendments, and in such a manner that there is no under-utilization of the floor space of Assisted Units. Owner shall utilize lease provisions requiring any household occupying and not needing the accessibility features of an accessible unit to move to another unit of appropriate size in the even another occupant household of the Project or an applicant household needs the features of the accessible unit.

2. If one (1) of the Assisted Units becomes vacated, Borrower shall make reasonable attempts to rent that particular Assisted Unit, or identify another unit as an Assisted Unit.
 3. During the initial lease up, and upon vacancies of an Assisted Unit, Borrower shall make reasonable efforts to advertise to Eligible Households. For reference purposes, the eligibility income requirements are specified in Exhibit N, which is hereby incorporated into this Loan Agreement by this reference. The affirmative marketing requirements and procedures adopted must meet the requirements of federal fair housing laws and the City's affirmative marketing policy. Borrower shall obtain and comply with the City's affirmative marketing guidelines contained within the Property Management Plan Packet from HCIDLA. All affirmative marketing requirements must be followed throughout the affordability period.
- B. The Borrower shall provide to each tenant, the following: (1) a signed copy of the lease and/or rental agreement; and (2) a signed copy of the supplemental agreement to the lease or rental agreement ("Mandatory Addendum").
- C. Borrower must submit evidence of marketing efforts and a marketing plan to the City if all restricted units are not occupied by eligible tenants within six (6) months following the date of the Temporary Certificate of Occupancy. Borrower will be in default of this Agreement if any restricted unit has not been rented

to eligible tenants within twelve (12) months after the date of the Temporary Certificate of Occupancy.

- D. Borrower shall, consistent with the approved Property Management Plan for the Project, Lender's affirmative fair housing marketing guidelines and the requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 C.F.R. Part 8, develop and carry out procedures to inform eligible persons with disabilities about the availability of accessible units at the Project. First, Borrower shall offer any vacant accessible unit to a household, living in the Project, which has a household member needing the features of that unit and occupies a unit that is not accessible. Second, Borrower shall offer the accessible unit to the first household on the Borrower's waiting list with a household member needing the features of the unit. Third, Borrower shall offer the accessible unit to any other family, consistent with the waiting list requirements of Section 3.6. Borrower shall utilize lease provisions requiring any household occupying and not needing the accessibility features of an accessible unit to move to another unit of appropriate size in the event another occupant household of the Project or an applicant households need the features of the accessible unit. The expenses related to moving tenants due to the need for an accessible unit is an eligible project cost in accordance with Exhibit B, Definitions for Operating Expenses.

3.11 **NOTICE TO TENANTS.** There are four (4) points in time when the Borrower is required to give written notice to all tenants of Restricted Units:

- A. Upon initial move-in/lease execution, Borrower shall give written notice, to all tenants of Restricted Units, of the duration of the rent restrictions under the Regulatory Agreement. Borrower must maintain, in its files, a copy of each notice containing each tenant's signed acknowledgment of the notice required hereunder. The notice shall, at the least, contain language that the rent restrictions under the Regulatory Agreement shall be in effect for the twenty (20) year period, and shall terminate twenty (20) years from the date of Project Completion and

fulfillment of the conditions as contained in the Regulatory Agreement. Upon termination of the rent restriction period under the Regulatory Agreement, rents may be set at market rates unless otherwise restricted by some other legal, regulatory, or contractual requirement.

- B. Twelve (12) months prior to the termination of the rent restriction period under the Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Restricted 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 Department of Housing and Community Development.

- C. Six (6) months prior to the termination of the rent restriction period under the Regulatory Agreement, Borrower must give written notice to its tenants of the termination of the restrictions on the Restricted 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 Department of Housing and Community Development.

- D. Ninety (90) days prior to the termination of the rent restriction period under the Regulatory Agreement, Borrower must again give written notice to its tenants of the termination of the restrictions on the Restricted Units before their rents may be raised to market rent levels.

3.12 AFFORDABILITY RESTRICTIONS AND MAXIMUM RENTAL CHARGES. The affordability of the Project and the maximum rental charges shall be maintained as designated in Exhibit N, which is hereby incorporated into this City Loan Agreement by this reference.

3.13 COMPLIANCE WITH REGULATORY AGREEMENT. As a material inducement to Lender making the Loan to Borrower, Borrower covenants to comply with the Regulatory Agreement in the use and operation of the Property.

3.14 CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY. Any conflicts between the restrictive provisions contained in this Loan Agreement, City Note, City Deed of Trust, and Regulatory Agreement, and any other agreements in connection with the Loan or any other loan which affect the Property, are to be resolved by applying the more restrictive covenants or restrictions which affect the Property.

ARTICLE 4. EMPLOYMENT

4.1 NONDISCRIMINATION.

- A. No person shall on the grounds of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, familial status, pregnancy, childbirth or related medical condition, acquired immune deficiency syndrome (AIDS), acquired or perceived, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Project. For purposes of this Section, Title 24 Code of Federal Regulations Section 570.601(b) defines specific discriminatory actions which are prohibited and corrective action which shall be taken in situations as defined.
- B. The Borrower shall comply with the nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City. In performing this Loan Agreement, the Borrower shall not discriminate in its employment practices against any employee, or applicant for employment because of such person's race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency syndrome (AIDS), acquired or perceived, familial status, pregnancy, childbirth or related medical condition. The Borrower shall comply with Executive Order 11246, entitled "Equal

Employment Opportunity", as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations, and its implementing regulations at 41 CFR Part 60.

- C. The Borrower shall comply with the provisions of Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. If this Loan Agreement contains a consideration in excess of \$1,000, the Equal Employment Practices provisions of this Loan Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.3, in which event said provisions are incorporated herein by this reference. If this Loan Agreement contains a consideration in excess of one hundred thousand dollars (\$100,000), the Affirmative Action Program of this Loan Agreement shall be the mandatory contract provisions set forth in Los Angeles Administrative Code Section 10.8.4 which provisions are incorporated herein by this reference. The Borrower shall also comply with all rules, regulations, and policies of the City'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 Borrower relating to this Loan Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph. Failure of the Borrower to comply with this requirement or to obtain the compliance of its contractors or subcontractors with such obligations shall subject the Borrower to the imposition of any and all sanctions allowed by law, including but not limited to termination of the Borrower's contract with the City.
- D. Borrower shall and shall cause all contractors and subcontractors to include required nondiscrimination notices in all job postings and visibly posted in the office.

4.2 **EQUAL OPPORTUNITY.** Borrower and any contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal employment opportunity as set forth in this Loan Agreement and any attachments, and shall incorporate such provisions in all

construction contracts, professional services contracts, and subcontracts for work on the Project.

A. Pursuant to Executive Order 11246 and implementing regulations at 41 CFR Chapter 60, the Borrower, for itself and its successors and assigns, agrees that:

1. The Borrower shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency syndrome (AIDS), acquired or perceived, familial status, pregnancy, childbirth or related medical condition. The Borrower will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, creed, sex, sexual preference or orientation, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency syndrome (AIDS), acquired or perceived, familial status, pregnancy, childbirth or related medical condition. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Borrower shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

2. The Borrower shall, in all solicitations or advertisements for employees placed by or on behalf of the Borrower, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, sexual preference or

orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired immune deficiency syndrome (AIDS), acquired or perceived, familial status, pregnancy, childbirth or related medical condition.

3. The Borrower shall send a notice to each labor union or representative of workers with which the Borrower has a collective bargaining agreement or other contract or understanding, advising the labor union or worker's representative of the Borrower's commitments under Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Borrower shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Borrower shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of HUD pursuant thereto and will permit access to the Borrower's books, records and accounts by the City, the Secretary of HUD, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Section, or with any of the said rules, regulations, or orders, following notice and an opportunity to cure as provided in below, this Loan Agreement may be canceled, terminated, or suspended in whole or in part and the Borrower may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized by

Executive Order 11246 of September 24, 1965, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

7. The Borrower shall include the provisions of Paragraphs (1) through (6) of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be. The Borrower will take such action with respect to any construction contract, subcontract, or purchase order as the City or HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance. For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the first two (2) lines of this subsection shall be changed to read "During the performance of this Contract, the Borrower agrees as follows:" and the term "Borrower" shall be changed to "Contractor".

B. Except as provided in California Government Code Section 12940, et seq., the Borrower shall not engage in the following prohibited employment practices:

1. Refusal to hire or employ any person or refusal to select any person for any training program leading to employment, or to bar or to discharge such person from employment or from such training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment because of race, color, religion, creed, sex, sexual preference or orientation, gender identify/expression, transgender status, national origin, ancestry, physical handicap, medical condition, age, marital status, mental condition, blindness or other physical disability, acquired

immune deficiency syndrome (AIDS), acquired or perceived, familial status, pregnancy, childbirth or related medical condition.

4.3 EMPLOYMENT OPPORTUNITIES FOR BUSINESS AND LOWER-INCOME PERSONS. Borrower and any contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal opportunities for business and lower-income persons (referred to as a Section 3 clause, of the HUD Act of 1968, 12 U.S.C. 1701u) as set forth in Exhibit O, which is hereby incorporated into this Loan Agreement by this reference, and shall incorporate such provisions in all construction contracts, professional services contracts, and subcontracts for work on the Project.

- A. The work to be performed under this Loan Agreement is on a Project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, hereinafter referred to as "Section 3". Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the Project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the Project.
- B. The parties to this Loan Agreement shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in Title 24 CFR, Part 135, and all applicable rules and orders of HUD issued thereunder prior to the execution of this Loan Agreement. The parties to this Loan Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- C. The Borrower shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places

available to employees and applicants for employment and training.

- D. The Borrower shall include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or recipient of, Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. The Borrower shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under Title 24 CFR Part 135 and will not subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in Title 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Loan Agreement, shall be a condition of the federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the Borrower and its subcontractors, its successors, and assigns to those sanctions specified by this Loan Agreement or Contract through which federal assistance is provided, and to such sanctions as are specified by Title 24 CFR Part 135.

4.4 PARTICIPATION OF SMALL, MINORITY AND WOMEN'S BUSINESSES (MBE/WBE). Borrower and any contractors and subcontractors for the Project shall comply with the policies of Lender, the state, and the federal government concerning minority- and women-owned business enterprises, shall use its best efforts to obtain the maximum utilization of minority- and women-owned business enterprises based in Los Angeles, and shall ensure that minority- and women-owned business enterprises based in Los Angeles shall have maximum practicable opportunity to compete for subcontractor work under this Loan Agreement, as set forth in this Loan Agreement and any attachments. Borrower shall incorporate similar provisions in all contracts and subcontracts for work on the Project.

Borrower agrees and shall cause any contractors and subcontractors for the Project to agree and obligate itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. Borrower and any contractors and subcontractors certify that it has complied with Mayoral Directive 2001-26 regarding contracts greater than \$100,000 (One Hundred Thousand Dollars), if applicable. Borrower shall not change any of these designated contractors or subcontractors, nor shall Borrower reduce their level of effort, without prior written approval of the City.

4.5 AFFIRMATIVE ACTION IN EMPLOYMENT AND CONTRACTING PROCEDURES.

- A. Borrower and Lender understand and agree that it is the policy of the City to promote and ensure economic advancement of minority racial and ethnic persons as well as other economically disadvantaged persons through employment and in the award of contracts and subcontracts by private developers. Accordingly, Borrower shall use its best efforts to seek out and, to the greatest extent feasible, award and require the award of contracts and subcontracts for development of the Project to contracting firms owned by persons residing in Los Angeles County.
- B. Borrower shall also, to the greatest extent feasible, use its best efforts to award contracts and require the award of subcontracts by its contractors to firms representative of the racial and ethnic groups residing in Los Angeles County.
- C. Borrower shall in all general contracts for the development of the Project (and its contractors shall in all subcontracts thereunder) require that, to the greatest extent feasible, the labor force in all categories be comprised of residents of Los Angeles County. Borrower and its contractors shall also, to the greatest extent feasible, require that such labor force be proportionately representative of the racial and ethnic groups residing in Los Angeles County. City shall provide to Borrower from time to time when requested, its current figures on the racial, economic and ethnic mix of the population of Los Angeles County and such figures shall be the basis for Borrower's and

it sub-contractor's hiring and awarding efforts for the purposes of this Loan Agreement.

4.6 LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE.

A. Unless otherwise exempt in accordance with the provisions of these Ordinances, this Loan Agreement is subject to the applicable provisions of the Living Wage Ordinance (LWO) Section 10.37 et. seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:

1. Borrower assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
2. Borrower further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Borrower shall require each of its contractors and subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Borrower shall deliver the executed pledges from each such contractor and subcontractor to the City within ninety (90) days of the execution of the contract and subcontract. Borrower's delivery of executed pledges from each such contractor and subcontractor shall fully discharge the obligation of the Borrower with respect to such pledges and fully discharge the obligation of the Borrower to comply with the provision in the LWO contained in Section 10.37.6c concerning compliance with such federal law.
3. The Borrower and any contractor and subcontractor for the project, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against

any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Borrower and any contractor and subcontractor for the project shall post the Notice of Prohibition Against Retaliation provided by the City.

4. Any contract and subcontract entered into by the Borrower and any contractor and subcontractor for the project relating to this Loan Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section and shall incorporate the provisions of the LWO and the SCWRO.
 5. Borrower and any contractor and subcontractor for the project shall comply with all rules, regulations and policies promulgated by the City's designated administrative agency which may be amended from time to time.
- B. Under the provisions of Section 10.36.3c and Section 10.37.5c of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this Loan Agreement and otherwise pursue legal remedies that may be available if the City determines that the subject Borrower and any contractor and subcontractor has violated provisions of either the LWO or the SCWRO or both.
- C. Where under the LWO Section 10.37. 6(d), the designated administrative agency has determined (a) that the Borrower and any contractor and subcontractor for the project is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the Borrower in accordance with the following procedures. Impoundment shall mean that from monies due the Borrower, the awarding authority may deduct the amount determined to be due and owing

by the Borrower and any contractor and subcontractor for the project to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6 (d) (3) and disposed of under procedures described therein through final and binding arbitration. Whether the Borrower and any contractor and subcontractor for the project is to continue work following an impoundment shall remain in the sole discretion of the awarding authority. The Borrower and any contractors and subcontractors for the project may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

- D. Earned Income Credit. This Loan Agreement is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). Employers must further make available to employees the forms informing the employees about the EIC and the forms required to secure advance EIC payments from employers.

4.7 **AMERICANS WITH DISABILITIES ACT.** The Borrower hereby certifies that it and any contractor and subcontractor will comply with the Americans with Disabilities Act, 42 USC §12101 *et seq.*, and its implementing regulations (ADA), the Americans with Disabilities Act Amendments Act of 2008, Pub. L. 110-325 (ADAAA) and all subsequent amendments, Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794 and 24 CFR Parts 8 and 9 (Rehab Act), the Uniform Federal Accessibility Standards (UFAS), and the Fair Housing Act, 42 U.S.C. 3601, *et seq.*; 24 CFR Parts 100, 103, and 104 (FHA) and all implementing regulations. 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 provisions of the ADA, the ADAAA, the Rehab Act, the UFAS and the FHA 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 and any contractor and subcontractor,

relating to this Loan Agreement and Project, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4.8 **EQUAL BENEFITS ORDINANCE.** Unless otherwise exempt in accordance with the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, this Loan Agreement is subject to the provisions of the EBO as amended from time to time.

- A. During the performance of the project, the Borrower certifies and represents that the Borrower and any contractor and subcontractor will comply with the EBO. The Borrower agrees to ensure posting the following statement in conspicuous places at its place of business and the project available to employees and applicants for employment:

During the performance of this project with the City of Los Angeles, the Borrower and any contractor or subcontractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of contract Compliance at (213) 847-1922".

- B. The failure of the Borrower to comply or to ensure that any contractor or subcontractor comply with the EBO will be deemed to be a material breach of the Loan Agreement by the Awarding Authority.
- C. If the Borrower and any contractor and subcontractor fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Loan Agreement, in whole or in part, and all monies due or to become due under the Loan Agreement may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against the Borrower in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

- E. If the Bureau of Contract Administration determines that a Borrower has set up or used its contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Loan Agreement on behalf of the City. Violation of this provision may be used as evidence against the Borrower in actions taken pursuant to the provisions of the Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

4.9 **CONTRACTOR RESPONSIBILITY ORDINANCE.** Unless otherwise exempt in accordance with the provisions of the Ordinance, this Loan Agreement is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, as amended from time to time, which requires Borrower to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Borrower's fitness and ability to continue performing under the Loan Agreement. In accordance with the provisions of this Ordinance, by signing this Loan Agreement, Borrower pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Loan Agreement, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees. The Borrower further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Borrower is not in compliance with all applicable federal, state and local laws in performance of this Loan Agreement and project; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Borrower and any contractor and subcontractor for the project has violated the provisions of Section 10.40.3 (a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its contractor and subcontractor, as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the contractor or subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the contract or subcontract.

4.10 **SLAVERY DISCLOSURE ORDINANCE.** Unless otherwise exempt in accordance with the provisions of this Ordinance, this Loan Agreement is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as may be amended from time to time. Borrower certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Loan Agreement.

4.11 **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 (1) it and any contractor and subcontractor will fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) that the principal owner(s) of the Borrower(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) it and any contractor or subcontractor 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 (4) it and any contractor or subcontractor will maintain such compliance throughout the term of this Loan Agreement. Pursuant to Section 10.10b 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 the Borrower(s) to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Borrower under the terms of this Loan Agreement, subjecting this Loan Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Borrower by City. Any contract and subcontract entered into by the 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 the Borrower to obtain compliance of its contractor and subcontractor shall constitute a default by the Borrower under the terms of this Loan Agreement, subjecting this Loan Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Borrower by the City.

Borrower shall comply with the Child Support Compliance Act of 1998 of the State of California as implemented by the Employment Development Department. Borrower 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 (1) of the Public Contract Code 7110.

4.12 ENFORCEMENT OF EMPLOYMENT REQUIREMENTS. In the event of underpayment of wages by Borrower or by any contractor or subcontractor employed on the Project, Lender, in addition to other rights and remedies afforded by this Loan Agreement or applicable law, may: (1) demand that Borrower and/or any underpaying employer comply with these requirements; (2) demand that the underpaying employer pay the difference between the prevailing wage rates and the amount actually paid to workers; (3) withhold from Borrower any Loan proceeds as may be necessary to compensate workers the full wages required under this Loan Agreement (whether or not the Loan payee is directly responsible for the underpayment); (4) impose liquidated damages in the form of a forfeiture of up to fifty dollars (\$50) per calendar day for each worker paid less than the prevailing wage, the amount of such forfeiture to be determined solely by Lender according to the standards contained in California Labor Code Section 1775; and/or (5) pursue any lawful administrative or court remedy to enforce these requirements against the Borrower and underpaying employer. Borrower shall comply with any demand to pay any amounts due under this section within ten (10) calendar days of said demand. In addition, a worker who has been paid less than the prevailing wage rate shall have a right to commence an action or proceeding against the employer to collect the underpayment.

In the event of any violation or deficiency with respect to the equal opportunity and/or the MBE/WBE provisions herein, including failure to provide adequate documentation as specified herein, by Borrower or by any contractor or subcontractor employed on the Project, Lender, in addition to other rights and remedies afforded by this Loan Agreement or applicable law, may: (1) demand that any noncomplying party comply with these requirements; (2) withhold disbursement of Loan proceeds from Borrower or any contractor or subcontractor until such violations are corrected; (3) impose liquidated damages on the noncomplying party in the form of a forfeiture of up to one thousand dollars (\$1,000) or one percent (1%) of the contract,

whichever is less, the amount of such forfeiture to be determined solely by Lender; and/or (4) pursue any lawful administrative or court remedy to enforce these requirements. Any noncomplying party shall comply with any demand to correct any noncompliance within ten (10) business days of said demand.

Borrower shall monitor and enforce the equal employment opportunity, minority- and women-owned business enterprises, and prevailing wage requirements imposed on its contractors and subcontractors, including withholding payments to those contractors or subcontractors who violate these requirements. In the event that Borrower fails to monitor or enforce these requirements against any contractor or subcontractor, Borrower shall be liable for the full amount of any underpayment of wages, plus costs and attorneys' fees, as if Borrower was the actual employer, and Lender may withhold payments to Borrower, may impose liquidated damages on Borrower in the amounts specified herein, may take action directly against the contractor or subcontractor as permitted by law, and/or may declare an Event of Default and pursue any of the other remedies available under this Loan Agreement.

4.13 LABOR COMPLIANCE MEETING. The Borrower shall meet with HCIDLA's Labor Compliance staff for a pre-construction briefing on all City construction requirements prior to the issuance of a notice to proceed.

ARTICLE 5. INDEMNITY AND INSURANCE

5.1 DAMAGE TO PROPERTY. If any building or improvements erected by Borrower on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its cost and expense, diligently undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications for the Project. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be complete within eighteen (18) months thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall make up the deficiency. Where the City is a lienholder, insurance must be issued covering the replacement cost value of the property with a Lender's Loss Payable endorsement listing the City as a loss payee as its interests may appear. The policy must remain in

effect through the term of the loan.

5.2 **INSURANCE COVERAGE.**

- A. General Conditions. During the term of this Loan Agreement and Regulatory Agreement and without limiting Borrower's indemnification of the City, Borrower shall provide and maintain, as well as ensure that any contractor or subcontractor provide and maintain, at its own expense a program of insurance having the coverages and limits not less than the amounts and types listed on the Required Insurance and Minimum Limits Sheet (Form General 146 in Exhibit Q hereto, which is hereby incorporated into this Loan Agreement by this reference.), covering its operations hereunder. Such insurance shall also conform to City requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit Q), and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management.
- B. Modification of Coverage. CITY reserves the right at any time during the term of this Loan Agreement and Regulatory Agreement to change the amounts and types of insurance required hereunder by giving Borrower and any contractor and subcontractor ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the Borrower and any contractor and subcontractor, CITY agrees to negotiate additional compensation proportional to the increased benefit to CITY.
- C. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the commencement of any work, inception of any operations, or tenancy by Borrower and any contractor and subcontractor.

Borrower's and any contractor's and subcontractor's failure to procure or maintain required insurance

during the entire term of this Loan Agreement and Regulatory Agreement shall constitute a material breach of this Loan Agreement under which City may immediately suspend or terminate this Loan Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premiums in connection therewith and shall become an additional obligation of Borrower to Lender and shall be secured by the Deed of Trust.

- D. Proceeds. All proceeds of insurance with respect to loss or damage to the Project during the term of the Loan shall be payable, under the provisions of the policy of insurance, jointly to the Borrower, the City, construction lender[s], permanent lenders and any other lender permitted by the City, and said proceeds shall constitute a trust fund to be used for the restoration, repair or rebuilding of the Project in accordance with plans and specifications approved in writing by the City. To the extent that such proceeds exceed the cost of such restoration, repair or rebuilding, such proceeds shall be applied first to repay the approved secured senior lenders and then to repay the City Loan. In the event of any fire or other casualty to the project or eminent domain proceedings resulting in condemnation of the project improvements or any part thereof, the Borrower shall have the right to rebuild the improvements, and to use all available insurance proceeds therefor, provided that (a) such proceeds are sufficient to keep the City Loan in balance and rebuild the improvements in a manner that provides adequate security to the City for repayment of the City Loan or if such proceeds are insufficient then the Borrower shall have funded any deficiency, (b) the City shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the City Loan. If the casualty affects only part of the improvements and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the City Loan in a manner that provides adequate security to the City for repayment of the remaining balance of the City Loans.

- E. Underlying Insurance. Borrower shall be responsible for requiring indemnification and insurance as it deems appropriate from its employees receiving mileage allowance and from its consultants, agents and subcontractors, if any, to protect Borrower's and City's interests and for ensuring that such persons comply with any applicable insurance statutes. Borrower is encouraged to seek professional advice in this regard.
- F. Worker's Compensation. By signing this Loan Agreement, Borrower hereby certifies that it is aware and shall make any contractor and subcontractor aware of the provisions of Section 3700 et seq., of the Labor Code which require every employer to be insured against liability for Workers' Compensation that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Loan Agreement.

A Waiver of Subrogation in favor of City will be required when work is performed on City premises under hazardous conditions.

5.3 INSURANCE POLICY REQUIREMENTS DURING ACQUISITION AND DEVELOPMENT. At close of escrow, the Borrower must provide the City with a one (1) year prepaid Certificate of Insurance policy (or binder followed by a certificate within thirty (30) days of loan closing) evidencing the required coverage stated below. The term of the insurance policy must not be less than the expected development period or one year, whichever is greater:

- A. **Builders Risk Property Insurance.** Prior to the start of construction, Borrower shall provide and maintain Builders Risk property insurance protecting such property from "Special Form" causes of loss for the actual replacement cost value of such property. Property insured under this section shall include, but not be limited to the following: All labor and materials comprising new work on the project site, including footings and foundations below grade, materials and equipment destined to become a permanent part of the finished structure and all soft costs applicable to development. Builders Risk insurance shall also extend to building materials located at off-site storage areas or in transit in amounts not

less than \$50,000 or actual replacement cost value, whichever is greater. Builders Risk insurance policy form must contain a waiver of the coinsurance provision, if available from Borrower's property insurance underwriter. If such coinsurance waiver is not available from Borrower's underwriter, the property insurance limit applicable to all property on the site shall be not less than 100% of the development hard cost and the coinsurance clause percentage shall not be more than 80%. The maximum deductible for Borrowers Builders Risk protection shall be \$10,000.

- B. **Mechanical breakdown (Boiler and Machinery).** For developments which equal or exceed \$5,000,000 in total hard cost, Borrower shall provide and maintain protection against the perils of mechanical breakdown in amounts not less than the building limit.

- C. **Flood insurance.** If the project is located in a Special Flood Hazard Area (SFHA), Borrower shall provide and maintain flood insurance in the maximum amount provided by the National Flood Insurance Program (NFIP) or the full replacement cost of the subject property, whichever is less.

- D. **Commercial General Liability.** Borrower shall, at all times during the development period, Provide and maintain Commercial General Liability insurance including, but not limited to, bodily injury, property damage and personal and advertising injury in an amount not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Borrower shall require its general contractor to provide and maintain Commercial General Liability insurance including, but not limited to, bodily injury, property damage, completed operations and personal and advertising injury in an amount not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate.

5.4 INSURANCE POLICY REQUIREMENTS DURING PERMANENT PHASE.

At the completion of the development, the Borrower must provide City with a Certificate and evidence of Insurance form (or insurance binder followed by a certificate within thirty (30) days of completion of the construction of the Project) evidencing the required insurance coverage stated below. The

insurance policy must be for a term of not less than one year, or Borrower may add the property to an existing insurance policy program placement which maintains an annual anniversary date.

- A. **Property Insurance.** No later than the time at which real or personal property subject to this agreement is at risk, Borrower shall provide and maintain property insurance protecting the project from "Special Form" causes of loss for the actual replacement cost value of such property. Property insured under this section shall provide limits insurance of not less than 100% of the replacement cost value of real property and personal property subject to this agreement and provide a replacement cost value (RCV) option. Property insurance policy must contain a waiver of the coinsurance provision, if available from Borrower's property insurance underwriter. If such coinsurance waiver is not available from Borrower's underwriter, the property insurance limit applicable to all property on the site shall be not less than 100% of the actual replacement cost new and the coinsurance clause percentage shall not be more than 80%. The maximum deductible for Borrower's property insurance protection shall be \$5,000.
- B. **Rental/Business Income.** Borrower shall provide and maintain insurance protecting the project from loss of income (rental or otherwise) for "special form" causes of loss. Period of indemnity for loss of business income shall not be less than 12 consecutive months and provide a limit of coverage not less than 100% of business income projected for the current calendar year.
- C. **Mechanical breakdown (Boiler and Machinery).** For properties with a replacement cost value new greater than \$5,000,000, Borrower shall provide and maintain protection against the perils of mechanical breakdown in amounts not less than the building limit.
- D. **Flood insurance.** If the project is located in a Special Flood Hazard Area (SFHA), Borrower shall provide and maintain flood insurance in the maximum amount provided by the National Flood Insurance Program space (NFIP) or 100% of the replacement cost value of the property subject to this agreement,

whichever is less.

- E. **Commercial General Liability.** Borrower shall, at all times during the term of this loan agreement and regulatory agreement, Provide and maintain Commercial General Liability insurance including, but not limited to, bodily injury, property damage Completed operations and personal and advertising injury in an amount not less than the following:

1. Minimum Amount:

<u>Number of Units</u>	<u>Liability Ins. Requirements</u>
1 - 10	\$1,000,000
11 - 30	2,000,000
31 - 60	3,000,000
61 - 80	4,000,000
81 -100	5,000,000
101 +	7,000,000

2. City may require higher limits for special circumstances, at City's sole discretion and City will provide written notice to the Borrower.
3. If Borrower directly contracts with a contractor or subcontractor, Borrower shall require such contractor or subcontractor to provide and maintain Commercial General Liability insurance including, but not limited to, bodily injury, property damage, completed operations and personal and advertising injury in an amount not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate.
4. Borrower shall be a named insured under all required insurance policies. Borrower shall require its insurance underwriters to provide not less than thirty (30) days advance written notice to Lender (ten (10) days written notice for non-payment of premium) prior to cancellation of the policy. If such advance written notice is not available from any of Borrower's insurance underwriters, Borrower shall provide written notice to Lender under the same aforementioned notice requirements.

- F. Borrower shall endorse its Commercial General Liability insurance policy to provide additional insured status in favor of the City of Los Angeles, its officers, agencies and employees. The City of Los Angeles shall be identified on all insurance documents, including the project name, street name, street address, City and County.
- G. Borrower shall endorse all property insurance policies required under this Agreement to name the City of Los Angeles as a loss payee under a Lenders Loss Payable endorsement.

Borrower is required to submit evidence of insurance to the City of Los Angeles pursuant to Form Gen. 133 which includes but is not limited to submitting insurance documents through the City of Los Angeles' online insurance compliance system, Tack4LA and to the City of Los Angeles Housing and Community Investment Department of the City of Los Angeles by submitting two (2) certified copies of the policy including the additional insured and cancellation notice endorsements.

- H. All Policies must include the following:
 - 1. Name Insured: Borrower
 - 2. Additional Insured: City of Los Angeles, its officers, agencies and employees shall be included as additional insureds.
 - 3. Cancellation Clause: The City must be notified 30 days prior to insurance company's cancellation of policy by certified mail.
 - 4. The City should be identified and/or named on all insurance documents as follows, including the project name, street name, street address, city and county:

City of Los Angeles
Housing and Community Investment Department
P.O. Box 532729
Los Angeles, CA 90053-2729

5.4 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** The Lender's officers, officials, employees or agents shall not be personally liable to Borrower for any obligation created under the terms of these Loan Documents except in the case of actual fraud or willful misconduct by such person.

5.5 **BONDS.** All bonds which may be required hereunder shall conform to City requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

5.6 **INDEMNIFICATION.** Except for the active negligence or willful misconduct of City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Borrower undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Borrower's and any contractor's and subcontractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Loan Agreement as a result (directly or indirectly) of or in connection with this Loan Agreement or the use of the Property by Borrower, its agents, employees, contractor or subcontractor of any tier, including suits, causes of action, claims, losses, demands and expenses relating to the condition of the Property. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Loan Agreement and those allowed under the laws of the United States, the State of California, and the City. The provisions of this Section 5.6 shall survive expiration or termination of this Loan Agreement.

5.7 **INTELLECTUAL PROPERTY INDEMNIFICATION.** Borrower, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the City, and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against

all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by Borrower, its agents, employees, contractor or subcontractor of any tier, in performing the work under this Loan Agreement; or (2) as a result of the City's actual or intended use of any Work Product furnished by Borrower, or its agents, employees, contractor or subcontractor of any tier, under the Loan Agreement. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Loan Agreement and those allowed under the laws of the United States, the State of California, and the City. The provisions of this paragraph shall survive expiration or termination of this Loan Agreement.

ARTICLE 6. ENVIRONMENTAL COMPLIANCE

6.1 REPRESENTATIONS AND WARRANTIES. After reasonable investigation and inquiry, Borrower hereby represents and warrants to the best of its knowledge, as of the date of this Loan Agreement and except as previously disclosed and acknowledged in writing by Lender or as disclosed by the reports based on environmental audit(s) performed on the Property and submitted to Lender, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials in violation of Federal or State law; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to federal lead-based paint regulations, and soil and groundwater conditions ("Hazardous Materials Laws"); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating

to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property) or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be classified as a "hazardous waste property" or as a "border zone property" under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

6.2 NOTIFICATION TO LENDER. Borrower shall immediately notify Lender in writing of: (a) the discovery of any concentration or amount of Hazardous Materials on or under the Property requiring notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge by Borrower (after verification of the veracity of such knowledge to Borrower's reasonable satisfaction) that the Property does not comply with any Hazardous Materials Laws; (c) the receipt by Borrower of written notice of any Hazardous Materials claims; and (d) the discovery by Borrower of any occurrence or condition on the Property or on any real property located within 2,000 feet of the Property that could cause the Property or any part thereof to be designated as a "hazardous waste property" or as a "border zone property" under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

6.3 USE AND OPERATION OF PROPERTY. Neither Borrower, nor any agent, employee, or contractor of Borrower, nor any authorized user of the Property shall use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Borrower shall comply and cause the Project to comply with Hazardous Materials Laws.

6.4 COMPLIANCE WITH ENVIRONMENTAL STANDARDS. Borrower shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 USC §1451 et seq.); (f) conformity of federal actions to State (Clean Air)

Implementation Plans under Section 176(c) of the clean Air Act of 1955, as amended (42 USC §7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 930523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205); (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234); and (j) §508 of the Clean Water Act (38USC 1368).

6.5 REMEDIAL ACTIONS. If Borrower has actual knowledge of the presence of any Hazardous Materials on or under the Property, Borrower shall take or cause its tenant to take, at no cost or expense to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal or other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials claims. The foregoing, however, shall be subject to Borrower's right of contest below.

6.6 RIGHT OF CONTEST. Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws if: (a) the contest is based on a material question of law or fact raised by Borrower in good faith, (b) Borrower promptly commences and thereafter diligently pursues the contest, (c) the contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful and any remedial action then reasonably necessary. No Event of Default shall be deemed to exist with respect to any claim, demand, levy or attachment being contested by Borrower under the conditions of this section.

6.7 ENVIRONMENTAL INDEMNITY. Borrower shall defend, indemnify, and hold Lender free and harmless against any claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and reasonable attorney's fees, that Lender may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage,

release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower's use or occupancy of the Property.

ARTICLE 7. DEFAULT AND REMEDIES

7.1 **EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute an "Event of Default" under this Loan Agreement:

- A. Monetary. (1) Borrower's failure to pay when due any sums payable under the City Note or any advances made by Lender under the City Deed of Trust or this Loan Agreement; (2) Borrower's use of Loan funds for costs other than Eligible Costs or for uses inconsistent with other terms and restrictions in the Loan Documents; (3) Borrower's failure to obtain and maintain the insurance coverage required under this Loan Agreement; (4) Borrower's failure to make any other payment or assessment due under the Loan Documents; (5) Borrower's failure to keep the Loan "in balance" as required under this Loan Agreement;
- B. Construction. (1) Borrower's substantial deviation in the work of construction specified in the Plans and Specifications submitted to Lender, without Lender's prior written consent; (2) Borrower's use of defective or unauthorized materials or defective workmanship in constructing the Project; (3) Borrower's failure to commence or complete construction, without proper justification under the unavoidable delay provision of this Loan Agreement, according to the construction schedule specified in this Loan Agreement; (4) the cessation of construction prior to completion of the Project for a period of more than fifteen (15) continuous calendar days without proper justification; (5) any material adverse change in the condition of Borrower or the Project or any other event that gives Lender reasonable cause to believe that the Project cannot be constructed by the scheduled completion date according to the terms of this Loan Agreement; (6) the filing of any claim of lien against the Property or service on Lender of any stop notice relating to the Loan and the continuance of the claim of lien or stop notice for thirty (30) days after such filing or

service without payment, discharge, or satisfaction as provided for in this Loan Agreement; (7) Borrower's failure to remedy any deficiencies in recordkeeping or failure to provide records to Lender upon Lender's or HUD's request; (8) Borrower's failure to substantially comply with any applicable federal, state, or local laws or Lender policies governing construction, including but not limited to provisions of this Loan Agreement pertaining to prevailing wages, affirmative action and equal employment opportunity, minority and women-owned business enterprises, lead paint, and Hazardous Materials; (9) Borrower's failure to design and construct the Project in compliance with all applicable design and construction requirements for accessibility, including, without limit, the Americans with Disabilities Act as amended, 42 U.S.C. §12101, et seq and its implementing regulations at 28 C.F.R. Parts 35 and 36 (ADA), Section 504 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794 and the implementing regulations of HUD at 24 C.F.R. Part 8, the Fair Housing Act as amended, 42 U.S.C. §3601, et seq and its implementing regulations at 24 C.F.R. Part 100 and any requirements of the City.

- C. Operation. (1) discrimination by Borrower on the basis of characteristics prohibited by this Loan Agreement or applicable law; (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval that are prohibited under this Loan Agreement or that have the effect of reducing the priority of or invalidating the City Deed of Trust; (3) any material adverse change in the condition of Borrower or the Project or construction financing or funding for the Project that gives Lender reasonable cause to believe that the Project cannot be operated according to the terms of the Loan Documents or the Regulatory Agreement; (4) failure to keep property in compliance with applicable codes and/or remedying deficiencies cited by City inspectors within the applicable time frames or if no time frame is stated, within six months of issuance of the citation; (5) noncompliance with lease terms and affordability requirements; (6) Borrower's failure to at all times maintain the Project in compliance with all applicable design and construction requirements for accessibility, including, without limit, the Americans

with Disabilities Act as amended, 42 U.S.C. §12101, et seq and its implementing regulations at 28 C.F.R. Parts 35 and 36 (ADA), Section 504 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794 and the implementing regulations of HUD at 24 C.F.R. Part 8, the Fair Housing Act as amended, 42 U.S.C. §3601, et seq and its implementing regulations at 24 C.F.R. Part 100, any applicable state and local laws, and any requirements of the City.

- D. General performance of Loan obligations. Any breach by Borrower of any obligations on Borrower imposed in the Loan Documents;
- E. General performance of other obligations. (1) Any breach by Borrower of any obligations on Borrower imposed by this Loan Agreement or any other agreements with respect to the financing, development, or operation of the Project or the Property, whether or not Lender is a party to such agreement; (2) Non-compliance with the Schedule of Performance, attached as Exhibit M, unless specifically permitted by HCIDLA;
- F. Representations and warranties. A determination by Lender that any of Borrower's representations or warranties made in the Loan Documents, any statements made to Lender by Borrower, or any certificates, documents, or schedules supplied to Lender by Borrower were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;
- G. Damage to Property. Material damage or destruction to the Property by fire or other casualty, if Borrower does not take steps to reconstruct the Property as required by the Loan Documents;
- H. Bankruptcy, dissolution, and insolvency. Borrower's or any general partner of Borrower or any corporation controlling Borrower's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or sixty (60) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian,

or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

7.2 CROSS DEFAULT. Any breach by Borrower of any obligations on Borrower imposed by this Loan Agreement or any other agreements with respect to the financing, development, or operation of the Project or the Property, whether or not Lender is a party to such agreement, shall constitute an Event of Default under this Loan Agreement and Loan Documents.

7.3 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For any Event of Default, Lender shall give written notice thereof to Borrower by specifying: (a) the nature of the event or deficiency giving rise to the Default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days (or ten (10) calendar days if the Event of Default is monetary) from the date of receipt of the notice or the date the notice was refused, by which such action to cure must be taken.

Notwithstanding anything to the contrary set forth herein, any "Event of Default" shall not constitute an "Event of Default" for the purposes of this Loan Agreement if the defaulting party cures, corrects or remedies the Event of Default within (a) thirty (30) calendar days (or ten (10) calendar days if the Event of Default is monetary) from receipt from the non-defaulting party of the aforementioned notice (or refusal thereof), or (b) solely in the event of a nonmonetary Event of Default, if such non-monetary default cannot be reasonably cured within thirty (30) days, such longer period as is necessary to cure such default, provided the defaulting party commences the cure within the thirty (30) day period from receipt (or refusal) of the aforementioned notice and diligently prosecutes such cure to completion.

Notwithstanding anything to the contrary contained herein, City hereby agrees that any cure of any default made or tendered by one or more of Borrower's limited partners shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

7.4 LENDER'S REMEDIES.

A. Upon the happening of an Event of Default by Borrower and a failure to cure said Event of Default within the time specified in section 7.3 above, Lender's obligation to disburse Loan proceeds shall terminate, and Lender may also, in addition to other rights and remedies permitted by the Loan Documents or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

- (1) Terminate this Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the City Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents including administrative costs, shall immediately become due and payable at the option of Lender;
- (2) Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;
- (3) Accelerate the Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the City Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents;
- (4) Enter the Property and take any actions necessary in its judgment to complete construction of the Project, including without limitation (1) making changes in the Plans and Specifications or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy;

- (5) Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete construction as needed to preserve Lender's interest in seeing the Project developed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy);
- (6) Order immediate stoppage of construction and demand that any condition leading to the Event of Default be corrected before construction may continue;
- (7) Disburse from Loan proceeds any amount necessary to cure any Monetary Default;
- (8) Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the City Deed of Trust and apply them to operate the Property or to pay off the Loan or any advances made under the Loan Documents, as provided for by the City Deed of Trust;
- (9) Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the City Deed of Trust;
- (10) With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736; or
- (11) Pursue any other remedy allowed at law or in equity. Nothing in this section is intended or shall be construed as precluding Lender from proceeding with a non-judicial foreclosure under the power of sale contained in the City Deed of Trust in the Event of Default by Borrower.

(12) Demand Borrower to pay all fines, penalties, and fees levied against the City, including any enforcement, repayment of funds to HUD and legal costs.

(13) Require Borrower to utilize Residual Receipts otherwise payable to Borrower and require Borrower to disburse funds from the Operating Reserve and/or the Replacement Reserve to make repairs to the Project to correct any default hereunder, or, in Lender's sole discretion, take possession of any such Residual Receipts, the Operating Reserve and/or the Replacement Reserve and carry out such repairs.

B. Upon an Event of Default, the outstanding principal and interest and any other sums outstanding in connection with the Loan shall thereafter bear interest at the Default Rate of fifteen percent (15%) (to the extent permitted by law), payable from the date of such written declaration until paid in full.

C. Upon an Event of Default, Lender is entitled to its equity share upon the sale of the property. HCIDLA will be entitled to a share in any appreciation that has occurred between the acquisition and the time of sale. HCIDLA's share in the appreciation will be equal to the proportion of the HCIDLA loan funds used in the purchase of the property or the amount of HCIDLA loan funds used to repay an acquisition bridge loan. This section 7.4C shall apply until construction has been completed and a Notice of Completion has been issued.

7.5 BORROWER'S REMEDIES. Upon the fault or failure of Lender to meet any of its obligations under the Loan Documents, Borrower may:

A. Demand payment or a reduction of the City Note from Lender of any sums due Borrower; and/or

B. Bring an action in equitable relief seeking the specific performance by Lender of the terms and conditions of the Loan Documents; and/or

C. Pursue any other remedy allowed at law or in equity.

7.6 INVESTOR LIMITED PARTNER RIGHTS.

A. Removal/Replacement of General Partner. The Investor/Limited Partner may remove a General Partner of the Borrower (also referred to as "Partnership") for cause in accordance with the Borrower's Partnership Agreement as amended _____ ("Partnership Agreement") and must immediately replace a General Partner with an interim replacement General Partner ("Interim General Partner") that is an affiliate of the Investor/Limited Partner. The Investor/Limited Partner must replace the Interim General Partner with a permanent replacement General Partner ("Permanent Replacement General Partner") within 90 days from the date the General Partner was removed from the Partnership. Upon written request from the Borrower, Lender may give the Borrower thirty (30) day extensions at Lender's sole discretion, up to a total of a ninety (90) extension, but no longer than a total of one hundred eighty days (180) from the date the General Partner was removed from the Partnership. The nomination of the Permanent Replacement General Partner shall be subject to Lender's consent.

Managing General Partner and Investor/Limited Partner are the entities named in Section 1.6.

- B. Transfer of Limited Partnership Interest. The Investor/Limited Partner may sell or assign their limited partnership interest in the Partnership to an Affiliate of the Investor/Limited Partner without Lender's prior written consent. Any other sale or assignment by the Investor/Limited Partner of their limited partnership interest in the Partnership shall require the prior written consent of the Lender. For purposes of this Agreement, an Affiliate of the Investor/Limited Partner means any investor or investment fund in which the general partner or managing member of the investor or investment fund, directly or indirectly controls, is controlled by or is under common control with Investor/Limited Partner.
- C. Amendment of Partnership Agreement. The Partnership Agreement shall not be amended without the prior written consent of Lender, except as necessary to memorialize the assignment or sale of the limited

partnership interests by the Investor/Limited Partner as permitted pursuant to this agreement.

- D. Reserve Credits. Lender acknowledges that the amounts held in the operating and replacement reserves by Investor/Limited Partner or the Senior Lien holder for the Project shall be credited, on a dollar for dollar basis, against the operating and replacement reserve requirements as set forth in Sections 1.18 and 1.19 of this Loan Agreement.
- E. Extension of Time to Complete and Occupy the Project. Upon the removal and replacement of the general partner in compliance with this Agreement, the Interim General Partner and/or the Permanent Replacement General Partner must perform and comply with all provisions of this Loan Document. Interim General Partner and/or Permanent Replacement General Partner must diligently and continuously cause the completion of construction of the Project and full occupancy of the Project by qualifying tenants on or before the date specified for such completion of construction and occupancy in the Loan Documents. Lender will grant an extension of time for completion of construction and full occupancy of the Project upon written request by Borrower showing its diligence in completing construction and causing full occupancy of the Project. The extension of time shall not be greater than deadlines imposed by any funding regulation applicable to this Agreement.

ARTICLE 8. GENERAL PROVISIONS

8.1 **TIME.** Time is of the essence in these Loan Documents.

8.2 **CONSTRUCTION OF PROVISIONS AND TITLES HEREIN.** All titles, subtitles, or headings in this Loan Agreement have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Loan Agreement shall be construed according to its fair meaning and not strictly for or against the Lender or Borrower. The word "Borrower" herein this Loan Agreement includes the part or parties identified in the Loan Agreement. The singular shall include the plural; if there is more than one Borrower herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be

joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

8.3 **RELATIONSHIP OF PARTIES.** The relationship of Borrower and Lender for this Project under this Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, or the Loan. Except as Lender may specify in writing, Borrower shall have no authority to act as an agent of Lender or to bind Lender to any obligation.

8.4 **ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign any of its interests under this Loan Agreement or the Loan Documents to any other party, except as specifically permitted under the terms of the Loan Documents, without the prior written consent of Lender. Any unauthorized assignment shall be void.

8.5 **BINDING UPON SUCCESSORS.** All provisions of these Loan Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Loan Agreement by Borrower without Lender's consent.

8.6 **CONFLICTS OF INTEREST.** Borrower covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any of its subcontracts supported (in whole or in part) by Federal funds where such person is a director, officer, employee or agent of the subcontractor; or where such person knows or should have known that:

1. A member of such person's immediate family or domestic partner, or organization has a financial interest in the subcontract;
2. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or

3. The participation of such persons would be prohibited by the California Political Reform Act, California Government Code Section 87100, et seq., if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
4. No members of the Board of Directors may be employed by the Contractor if this Contractor is a corporation.

A. Definitions

1. The term "immediate family" includes, but is not limited to domestic partner and/or those persons related by blood, marriage and/or adoption, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, son-in-law, and daughter-in-law, his or her significant other, and his or her domestic partner.
 2. The term "financial or other interest" includes but is not limited to:
 - a. Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - b. Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent (5%) or more; ownership of five percent (5%) or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
- B. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.

- C. Borrower further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from an actual or potential subcontractor, supplier, a party to a subagreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee or agent).
- D. Borrower shall not subcontract with a former director, officer, or employee within a one (1) year period following the termination of the relationship between said person and the contractor.
- E. Prior to obtaining the Lender's approval or any subcontract, the Borrower shall disclose to the Lender any relationship, financial or otherwise, direct or indirect, of the Borrower or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees. In the event that such a relationship exists, Borrower shall obtain prior approval from Lender for any such subcontract.
- F. Borrower warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- G. Borrower covenants that no member, officer or employee of Borrower shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this Project during his or her tenure as such employee, member or officer or for one (1) year thereafter.
- H. Borrower may not hire a person in an administrative capacity, staff position, or on-the-job training position with funds provided by this Loan Agreement if a member of that person's immediate family is engaged in an administrative capacity for the Borrower. A person in an administrative capacity is a person who either has an overall administrative responsibility for a program, or has responsibility for the direction, hiring, or fiscal integrity of the Borrower's program.

- I. The Borrower shall incorporate the foregoing subsections of this section into every agreement that it enters into in connection with this Project.
- J. The above restrictions shall apply now and in the future to all activities that are a part of this Loan Agreement and Project and shall cover any such interest or benefits during or at any time after such person's tenure.
- K. Borrower shall comply with the conflict of interest provisions for all sources of funds. This includes, but is not limited to, the provision that no (a) owner, developer or sponsor of the project; (b) officer, employee, agent, consultant or elected or appointed official of the owner, developer or sponsor; or (c) a member of the Immediate Family of such person as described in the definitions above in subsection A, may occupy a unit in the development. If the household seeking to occupy the unit is a lower income household who would otherwise qualify for the unit, written request must be made to City. City may grant an exception on a case-by-case basis in accordance with applicable policies, procedures and regulations.
- L. Borrower covenants that it will comply with the HOME conflict of interest provisions contained within 24 CFR 92.356 and the code of conduct provisions contained within 24 CFR 84.42.

8.7 **BORROWER'S WARRANTIES.** Borrower represents and warrants (1) that it has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of these Loan Documents and the Regulatory Agreement, and to otherwise carry out the Project in a manner consistent with professional standards practiced among those within Borrower's profession, doing the same or similar work under the same or similar circumstances, (2) that it is duly organized, validly existing and in good standing under the laws of the State of California, (3) that it has the full power and authority to undertake the Project and to execute the Loan Documents, (4) that the persons executing and delivering the Loan Documents are authorized to execute and deliver such documents on behalf of Borrower; and (5) that the Project will be designed, constructed, completed and operated in a manner consistent with the requirements of the Fair Housing Act,

Section 504, the ADA and any applicable local and state non-discrimination laws.

8.8 **INTELLECTUAL PROPERTY WARRANTY.** Borrower represents and warrants that its performance of all obligations under the Loan Documents do not infringe in any way, directly or contributory, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

8.9 **OTHER AGREEMENTS.** Borrower represents that it has not and/or will not entered into any agreements that are inconsistent with the terms of the Loan Documents. Borrower shall not enter into any agreements that are inconsistent with the terms of the Loan Documents without an express waiver by Lender in writing.

8.10 **PROJECT MONITORING AND EVALUATION.** Except as otherwise provided for in this Loan Agreement, Borrower shall maintain and submit records to Lender within ten (10) business days of Lender's request which clearly document Borrower's performance under each requirement of the Loan Documents.

8.11 **CONSENTS AND APPROVALS.** Any consent or approval of Lender or Borrower required under the Loan Documents shall not be unreasonably withheld. Any approval required under the Loan Documents shall be in writing and executed by an authorized representative of the party granting the approval.

8.12 **WAIVER.** Any waiver by Lender of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of its obligations under the Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers. A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that

default.

8.13 INTEGRATED AGREEMENT. This Loan Agreement and the other Loan Documents, including exhibits, set forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. The Loan Agreement and the other Loan Documents may be amended only as provided for herein.

8.14 AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to the Loan Documents must be in writing, and shall be made only if properly executed by both Borrower and Lender. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any terms and conditions of this Agreement.

The Borrower agrees to comply with all future City Directives or any rules, amendments or requirements promulgated by the City affecting this Agreement.

8.15 APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City. This Loan Agreement shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. Borrower shall comply with new, amended, or revised laws, regulations, policies, and/or procedures that apply to the performance of this Loan Agreement.

In any action arising out of this Loan Agreement, Borrower consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Loan Agreement is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Loan Agreement, the validity of the remaining parts, terms or provisions of the Loan Agreement shall not be affected thereby.

8.16 CONFLICTS BETWEEN CITY DOCUMENTS. In the event that any monetary provisions of the City Loan Agreement, City Regulatory Agreement, City Deed of Trust, and/or City Note

conflict, the terms of the City Note and City Deed of Trust shall control. In the event that any monetary provisions of the City Note and City Deed of Trust conflict or in the event that any non-monetary provisions of the City Loan Agreement, City Regulatory Agreement, City Deed of Trust, and/or City Note conflict, the strictest provision shall control.

8.17 STATUTORY REFERENCES. All references in the Loan Documents or Regulatory Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City of Los Angeles shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

8.18 SEVERABILITY. Every provision of this Loan Agreement is intended to be severable. If any provision of this Loan Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

8.19 COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12). The Borrower, its Contractor, Subcontractors, and Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Borrower, its Contractor, Subcontractors, and Principals is required to provide and update certain information to the City as specified by law. Any Borrower, its Contractor, Subcontractors, and Principals subject to Charter Section 470(c)(12), shall include the following notice in any contract with a contractor, subcontractor or principal expected to receive at least \$100,000 for performance under this contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract # _____ . Pursuant to City Charter

Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies includes fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Borrower, its Contractor, Subcontractors, and Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

8.20 POLITICAL AND SECTARIAN ACTIVITY PROHIBITED. None of the funds, materials, property or services provided directly or indirectly under this Loan Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this Agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.

8.21 PUBLICITY. Any publicity generated by Borrower for the Project during the term of this Loan and for one (1) year thereafter shall make reference to the contribution of Lender in making the Project possible. The words "The City of Los Angeles" will be prominently displayed in any and all pieces of publicity, including but not limited to flyers, press releases, posters, signs, brochures, public service announcements, interviews, and newspaper articles. Borrower further agrees to cooperate with authorized staff and officials of Lender in any Lender-generated publicity or promotional activities undertaken

with respect to the Project.

8.22 NONRECOURSE. This Loan is a nonrecourse obligation of Borrower. Neither Borrower nor any other party shall have any personal liability for repayment of this Loan. The sole recourse of Lender for repayment of the principal and interest shall be the exercise of Lender's rights against the Property. However, nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement of all the rights and remedies of the Lender against all such security for the City Note, or (b) be deemed in any way to impair the right of the Lender to assert the unpaid principal amount of the City Note as demand for money within the meaning of the California Code of Civil Procedure.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the City Note; except nothing contained in the foregoing is intended to relieve the Borrower of personal liability for (1) fraud or willful misrepresentation; (2) failure to pay taxes, assessments or other charges (which are not contested by Borrower in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the Borrower's indemnification obligations under the Loan Agreement; (4) misappropriation of any rents, security deposits, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security; and (5) failure to pay the Lender any rental income or other income arising with respect to the Property received by the Borrower after the Lender has given notice to the Borrower of the occurrence of an Event of Default, subject to the rights of any lender providing a loan secured by the Property to which the Lender has subordinated the City Deed of Trust.

8.23 CRIMINAL PENALTIES. Any person who diverts funds to a use other than for which the funds were received or submits a false voucher to obtain construction loan funds or submits false financial statements in applying for a loan secured by real property is guilty of a criminal offense punishable by a ten thousand dollar (\$10,000.00) fine plus imprisonment. California Penal Code sections 484b, 484c and 532a & 532f.

IN WITNESS WHEREOF, the Lender and the Borrower have caused this Loan Agreement to be executed by their duly authorized representatives.

Lender:

Executed this _____ day of _____, 2015

THE CITY OF LOS ANGELES
Housing and Community Investment Department

By: _____
HELMI HISSERICH,
Assistant General Manager

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney

By: _____
Deputy/Assistant City Attorney

Date: _____

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

Borrower:

Executed this _____ day of _____, 2015

Hollywood Community Housing Corporation

A California non-profit corporation

By:

A California

Its:

By:

Name: William F. Harris

Title: Executive Director

By:

Name: Kyle B. Arndt

Title: Board Chair

City Business License Number: 647943-22

Internal Revenue Service ID Number

or Social Security Number: 95-4198215

Said Agreement is Number _____ of City Contracts

Council File Number 06-0100-S12, 07-1277-S2, and 15-1183