

LOAN AGREEMENT

Between

SAN BERNARDINO COUNTY

and

E Street Veterans Apartments, LP

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. DEFINITIONS AND EXHIBITS	2
Section 1.1 Definitions.....	2
The following terms have the following meanings:	2
Section 1.2 Exhibits.	8
ARTICLE 2. FUNDING PROVISIONS	9
Section 2.1 Loan.	9
Section 2.2 Interest.....	9
Section 2.3 Use of Loan Funds.	9
Section 2.4 Security.	10
Section 2.5 Subordination.....	10
Section 2.6 Conditions Precedent to Disbursement of Loan Funds.....	11
Section 2.7 Repayment Schedule.....	15
Section 2.8 Non-Recourse.	16
ARTICLE 3. CONSTRUCTION OF THE DEVELOPMENT	17
Section 3.1 Schedule of Performance.	17
Section 3.2 Permits and Approvals.....	17
Section 3.3 Construction Contract.	17
Section 3.4 Bid Package.	18
Section 3.5 Construction Bonds.....	18
Section 3.6 Commencement of Construction.	18
Section 3.7 Completion of Construction.....	19
Section 3.8 Construction Pursuant to Plans and Laws; Prevailing Wages; Accessibility.....	19
Section 3.9 Equal Opportunity.....	21
Section 3.10 Minority and Women-Owned Contractors.	21
Section 3.11 Progress Reports.	22
Section 3.12 Construction Responsibilities.	22
Section 3.13 Mechanics Liens, Stop Notices, and Notices of Completion.....	22
Section 3.14 Inspections.	23
Section 3.15 Approved Development Budget; Revisions to Budget.	23
Section 3.16 Developer Fee.	24
Section 3.17 Marketing Plan.....	24
Section 3.18 Resident Services Plan and Budget.....	24
ARTICLE 4. LOAN REQUIREMENTS.....	25
Section 4.1 Financial Accountings and Post-Completion Audits.....	25
Section 4.2 Annual Operating Budget.	25
Section 4.3 Information.	26
Section 4.4 Records.	26
Section 4.5 County Audits.	27

TABLE OF CONTENTS

	<u>Page</u>
Section 4.6 Hazardous Materials.	28
Section 4.7 Maintenance and Damage.	30
Section 4.8 Fees and Taxes.	30
Section 4.9 Notice of Litigation.	31
Section 4.10 Operation of Development as Affordable Housing.	31
Section 4.11 Nondiscrimination.	32
Section 4.12 Transfer.	32
Section 4.13 Insurance Requirements.	34
Section 4.14 Anti-Lobbying Certification.	37
Section 4.15 Covenants Regarding Approved Financing.	38
Section 4.16 Affordability and Project Monitoring.	38
 ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF DEVELOPER	 39
Section 5.1 Representations and Warranties.	39
 ARTICLE 6. DEFAULT AND REMEDIES.	 41
Section 6.1 Events of Default.	41
Section 6.2 Remedies.	43
Section 6.3 Right of Contest.	44
Section 6.4 Remedies Cumulative.	44
Section 6.5 Limited Partner Cure Rights	44
 ARTICLE 7. GENERAL PROVISIONS	 44
Section 7.1 Relationship of Parties.	44
Section 7.2 No Claims.	45
Section 7.3 Discretion Retained By County.	45
Section 7.4 Indemnification.	45
Section 7.5 Non-Liability of County Officials, Employees and Agents.	45
Section 7.6 No Third Party Beneficiaries.	45
Section 7.7 Conflict of Interest.	46
Section 7.8 Notices, Demands and Communications.	46
Section 7.9 Amendments.	47
Section 7.10 County Approval.	48
Section 7.11 Applicable Law and Venue.	48
Section 7.12 Parties Bound.	48
Section 7.13 Attorneys' Fees.	48
Section 7.14 Severability.	48
Section 7.15 Force Majeure.	48
Section 7.16 Waivers.	49
Section 7.17 Title of Parts and Sections.	49
Section 7.18 Entire Understanding of the Parties	49
Section 7.19 Multiple Originals; Counterpart.	49
Section 7.21 Action by the County.	50

TABLE OF CONTENTS

Page

(formerly referred to as Senate Bill 1439)**Error! Bookmark not defined.**

Exhibit A:	Legal Description of the Property
Exhibit B:	Approved Development Budget
Exhibit C:	Schedule of Performance
Exhibit D:	Form of Promissory Note
Exhibit E:	Form of Deed of Trust
Exhibit F:	Form of Regulatory Agreement
Exhibit G:	LATCF Requirements
Exhibit H:	Statement of Residual Receipts
Exhibit I:	Levine Act- Campaign Contribution Disclosure

LOAN AGREEMENT
(E Street- USVETS)

This Loan Agreement (this "Agreement") is dated November 18, 2025 (the "Effective Date"), and is between the San Bernardino County, a political subdivision of the State of California (the "County"), and E Street Veterans Apartments, LP, a California limited partnership ("Developer"), with reference to the following facts, understandings and intentions of the parties.

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. These Recitals refer to and utilize certain capitalized terms which are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

C. The Developer owns or will own the specified real property located at 1351 North E Street, San Bernardino, San Bernardino County, State of California, as more fully described in the attached Exhibit A, incorporated herein by this reference (the "Property").

D. The Developer intends to construct an approximately twenty-nine (29) unit ((excluding one (1) unrestricted manager's unit)) affordable rental housing development, including all common areas, plans, entitlements, appurtenances, improvement easements, buildings and fixtures associated with the Property (hereinafter referred to collectively as the "Improvements"). The Improvements and the Property are referred to as the "Development."

E. Developer wishes to accept from the County and the County wishes to extend to Developer a loan not to exceed Five Million Dollars \$5,000,000 of the County's General Housing Funds, consisting of Local Assistance and Tribal Consistency Fund ("LATCF"), for (the "County Loan") to fund the construction of the Development. The County Loan will be evidenced by this Agreement and will be subject to the terms and conditions set forth in Program Provisions and Special Conditions. No portion of the County Loan may be used for costs not associated with the Improvements.

F. The City of San Bernardino has prepared a Mitigated Negative Declaration under the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") requirements, pursuant to 14 CCR Section 15070. The County, as responsible agency, considered the environmental effects of the Development as show in the Mitigated Negative Declaration and determined that no further CEQA analysis is required pursuant to 14 California Code of Regulations Section 15162.

G. Pursuant to the LATCF Guidance (defined below); receipt of LATCF funding under the County Loan does not trigger the National Environmental Policy Act .

The Parties therefore agree as follows:

AGREEMENT

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

The following terms have the following meanings:

(a) "Affiliate" means an entity that is Controlling or Controlled by Developer's General Partner. For the purposes of this definition "Control" means (1) direct or indirect management or control of the managing member or members in the case of a limited liability company; (2) direct or indirect management or control of a general partner or general partners in the case of a partnership; and (3) direct or indirect control of a majority of the directors in the case of a corporation.

(b) "Agreement" means this Loan Agreement.

(c) "Annual Operating Expenses" means for each calendar year, the following costs reasonably and actually incurred for operation and maintenance of the Development, and subject to the limits contained in the Approved Development Budget:

(1) Property taxes and assessments imposed on the Property;

(2) Debt service and associated fees currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Property) on loans, including without limitation the Primary Loan, associated with development of the Property and approved by the County;

(3) Property management fees and reimbursements (including deferred payments of previously approved property management fees), on-site property management office expenses, and salaries of property management and maintenance personnel payable to a property manager approved by the County pursuant to the Regulatory Agreement, not to exceed amounts that are standard in the industry and pursuant to a management contract approved by the County pursuant to the Regulatory Agreement, not to exceed \$75 per Unit per month with an annual escalation equal to the lesser of: (a) three and a half percent (3.5%) or (b) the prior Year Consumer Price Index for Urban Wage Earners and Clerical Workers for the Los Angeles-Riverside-Orange County area (CPI);

(4) Premiums for property damage and liability insurance;

(5) Any annual license or certificate of occupancy fees required for operation of the Property;

(6) Security services;

(7) Advertising and marketing costs;

(8) Cash deposited into an operating reserve in an amount sufficient to replenish the operating reserve to the amount required by the Partnership Agreement approved by the County (approximately Ninety Eight Thousand Thirty Five Dollars (\$98,035) or the amount required in connection with the permanent financing (or any greater amount approved in writing by the County) but with the operating reserve capped at three (3) months gross rent from the Development (as such rent may vary from time to time);

(9) Asset Management , including a partnership management fee and asset management fee in the amounts approved by the County as part of the annual operating budget

(10) Deferred development fees in an amount approved by the County;

(11) Utility services not paid for directly by Tenants, including water, sewer, and trash collection;

(12) Maintenance and repair, including pest control, landscaping, grounds maintenance, painting and decorating, cleaning, common systems repair, janitorial supplies and services

(13) Social service fees and expenses;

(14) Annual audit fees, inspection fees, or monitoring fees;

(15) Fees for accounting, audit, and legal services incurred by Developer's general partner in the management of the Development, not to exceed amounts that are standard in the industry and to the extent not included in the Partnership Asset Management Fee;

(16) Extraordinary operating costs specifically approved in writing by the County;

(17) Payments of deductibles in connection with casualty insurance claims no normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves;

(18) Reasonable accounting fees and legal fees; and

(19) Other ordinary and reasonable operating expenses approved by the County in its reasonable discretion and not listed above.

Annual Operating Expenses do not include the following: depreciation, amortization, depletion or other non-cash expenses, any amount expended or withdrawn from any reserve account, and any capital cost associated with the Development, as determined by the accountant for Developer.

(d) "Approved Development Budget" means the proforma development budget, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B as such may be modified pursuant to Section 3.15.

(e) "Approved Financing" means all of the loans, grants and equity obtained by Developer and approved by the County for the purpose of financing the Development as listed in the Approved Development Budget.

(f) "Bid Package" means the package of documents Developer's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Development. The Bid Package is to include the following: (1) an invitation to bid; (2) copy of the proposed construction contract; and (3) all Construction Plans.

(g) "Board of Supervisors" means San Bernardino County's Board of Supervisors.

(h) "CEQA" has the meaning set forth in Paragraph F of the Recitals.

(i) "Certificate of Occupancy" means the certificate of occupancy or equivalent document issued by the City to certify completion of the construction of the Development.

(j) "Certified Access Specialist" means a certified access specialist registered with the State of California Department General Services Division of State Architect and who has met the requirements of Government Code Section 4459.5.

(k) "City" means the City of San Bernardino, a municipal corporation.

(l) "Close of Escrow" means the date that Developer holds title to the Property and all deeds of trust associated with Approved Financing necessary for the construction of the Development as shown on the Approved Development Budget are recorded against the Developer's interest in the Property.

(m) "Commencement of Construction" has the meaning set forth in Section 3.6.

(n) "Completion Component" has the meaning set forth in Section 2.6.

(o) "Completion of Construction" means the date the construction of the Improvements, respectively is completed as evidenced by the issuance of a certificate of occupancy or equivalent document issued by the City, to certify completion of the construction work.

(p) "Construction Component" has the meaning set forth in Section 2.6.

(q) "Construction Contract" has the meaning set forth in Section 3.3.

(r) "Construction Plans" means all construction documentation upon which Developer and the General Contractor rely in constructing the Development on the Property (including the units in the Development, landscaping, parking, and common areas) as approved by the City, as applicable, and includes, but is not limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications, and scope of construction working drawings.

(s) "County" has the meaning set forth in the first paragraph of this Agreement.

(t) "County Documents" means this Agreement, the Note, the Regulatory Agreement, and the Deed of Trust.

(u) "County Prorata Percentage" means the County's prorata percentage of the Lenders' Share of Residual Receipts, resulting from dividing the Loan funds disbursed to Developer in accordance with this Agreement, by the sum of Public Loans funds actually disbursed, or any other residual receipts loans included as Approved Financing and disbursed to Developer.

(v) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing among Developer, as Trustor, a trustee approved by the County, and the County, as beneficiary, that will encumber the Developer's title in the Property to secure repayment of the Loan and performance of the covenants of the County Documents. A copy of the form of Deed of Trust is attached as Exhibit E.

(w) "Default Rate" has the meaning set forth in Section 6.2(a)(v).

(x) "Developer" has the meaning set forth in the first paragraph of this Agreement.

(y) "Developer Fee" has the meaning set forth in Section 3.16 and includes the Deferred Developer Fee defined in subsection 3.16(a).

(z) "Development" has the meaning set forth in Paragraph D of the Recitals.

(aa) "Eligible Participants" means either At Risk of Homelessness Households or Homeless Households referred by the County's Office of Homeless Services (OHS) through the Coordinated Entry System (CES) to Developer. All those participating with CES will need to apply to participate in the Homeless Management Information System (HMIS). Eligible Participants may also include veterans and their families that satisfy the eligibility requirements under the Veterans Housing and Homeless Prevention Program ("VHHP").

(bb) "Escrow" means the escrow account established by the Developer for the closing of Development financing with Commonwealth Land Title Company in its Los Angeles California office, located at 601 S. Figueroa Street, Suite 4000, Los Angeles CA 90017, or another escrow company satisfactory to the County.

(cc) "Event of Default" has the meaning set forth in Section 6.1.

(dd) "Final Cost Certification" has the meaning set forth in Section 4.2(b).

(ee) "Final Development Cost" means the total of the cost of acquisition, development and construction (including soft costs) of the Development as shown on the Final Cost Certification, including the payment of the Deferred Developer Fee pursuant to Section 3.16 below.

(ff) "General Contractor" has the meaning set forth in Section 3.3.

(gg) "Gross Revenue" means for each calendar year, all revenue, income, receipts, and other consideration actually received from operation and leasing of the Development.

(1) all rents, fees and charges paid by tenants, payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income;

(2) The proceeds of business interruption or similar insurance;

(3) Any payment received in consideration for the leasing or other use of any portion of the Property;

(4) Subject to the rights of Senior Lenders, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Property (or applied toward the cost of recovering such proceeds);

(5) Subject to the rights of Senior Lenders, condemnation awards for a taking of part or all of the Property for a temporary period; and

Gross Revenue shall exclude tenants' security deposits, loan proceeds, capital contributions or other similar advances.

(hh) "Hazardous Materials" has the meaning set forth in Section 4.7.

(ii) "Hazardous Materials Claims" has the meaning set forth in Section 4.7.

(jj) "Hazardous Materials Law" has the meaning set forth in Section 4.7.

(kk) "Homeless Management Information System" or "HMIS" means a local database application used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of or homelessness in the County. HMIS is managed and operated by the County Office of Homeless Services (OHS).

(ll) "HUD" has the meaning set forth in Paragraph B of the Recitals.

(mm) "Improvements" has the meaning set forth in Paragraph E of the Recitals.

(nn) "Investor Limited Partner" means R4 ESCA Acquisition LP, a Delaware limited partnership, and its permitted successors and assigns; the entity admitted to the Developer and benefiting from federal low-income housing tax credits established pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

(oo) "LATCF Guidance" means the Guidance for the Local Assistance and Tribal Consistency Fund, published by the U.S. Department of Treasury, updated September 2023.

(pp) "LATCF Requirements" means the requirements set forth in Exhibit G, incorporated herein by this reference, governing the use of the Loan.

(qq) "Lenders' Share of Residual Receipts" means fifty percent (50%) of the Residual Receipts, inclusive of any Residual Receipts payment due under the Public Loans.

(rr) "Low Income Household" means a household with an income that does not exceed eighty percent (80%) of area median income, adjusted for actual household size.

(ss) "Major Trades" means the following construction trades for which the general contractor must bid out work: mechanical, roofing, concrete, electrical, plumbing, and framing trades.

(tt) "Marketing Plan" has the meaning set forth in Section 3.17(a).

(uu) "Net Proceeds of Permanent Financing" means the amount by which Permanent Financing exceeds the Final Development Costs.

(vv) "Note" means the Promissory Note that evidences Developer's obligation to repay the Loan. A copy of the form of Note is attached as Exhibit D.

(ww) "Notice of Completion" means the Notice of Completion executed by Developer in the form specified in California Civil Code Section 3093.

(xx) "Partnership Agreement" means the Agreement of Limited Partnership executed by the partners of Developer, to be amended and restated upon admittance of the Investor Limited Partner to the partnership, and as may be further amended pursuant to the requirements of Section 4.12(c)(2) hereof.

(yy) "Partnership Asset Management Fee" means the total of the annual partnership management fees and asset management fees payable to the limited partner and/or general partner of Developer pursuant to Developer's Partnership Agreement, in an amount to be approved by the County at the end of the tax credit compliance period for the remainder of the Term.

(zz) "Permanent Closing" means the date that all deeds of trust associated with the Permanent Financing, have been recorded against the Developer's interest in the Property, or if previously recorded, are converted to permanent deeds of trust, which shall also be referenced as the "Conversion Date".

(aaa) "Permanent Financing" means the permanent financing loans as shown on the Approved Development Budget.

(bbb) "Permitted Limited Partner" has the meaning set forth in Section 6.5.

(ccc) "Permitted Transfer" has the meaning set forth in Section 4.12.

(ddd) "Property" has the meaning set forth in Paragraph C of the Recitals.

(eee) "Public Loans" means the sum of the State VHHP Loan, County Loan and the City's PLHA and Low-Moderate Income Housing Fund Loans in the amounts identified in the Approved Development Budget.

(fff) "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants between the County and Developer to be recorded against the Developer's interest in the Property and will restrict the occupancy of the Development to Eligible Participants. A copy of the form of Regulatory Agreement is attached as Exhibit E.

(ggg) "Residual Receipts" shall mean, in a particular calendar year the amount by which Gross Revenue exceeds Annual Operating Expenses. The County's Pro Rata Share of the Residual Receipts is further set forth in Section 2.7(a)(6).

(hhh) "Risk Management" means the San Bernardino County's Department of Risk Management.

(iii) "Schedule of Performance" means the schedule for performance of various tasks and obligations under this Agreement that is attached as Exhibit C, as such may be modified pursuant to Section 3.1.

(jjj) "Senior Lender" has the meaning set forth in Section 2.5.

(kkk) "Services Budget" has the meaning set forth in Section 3.18.

(lll) "Services Plan" has the meaning set forth in Section 3.18.

(mmm)"Tax Credit Investor Equity" means the amount of tax credit equity to be contributed by the Investor Limited Partner in the approximate amount Twelve Million Four Hundred Sixty-Two Thousand Nine Hundred Twenty-Six Dollars (\$12,462,926).

(nnn) "TCAC" means the California Tax Credit Allocation Committee.

(ooo) "Resident" means the tenant household that occupies a unit in the Development.

(ppp) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on the fifty-fifth (55th) anniversary of Completion of Construction.

(qqq) "Transfer" has the meaning set forth in Section 4.13.

(rrr) "Unit" means one (1) of the approximately twenty-nine (29) affordable housing units to be constructed at the Development, other than a manager's unit or a non-restricted unit.

Section 1.2 Exhibits.

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A:	Legal Description of the Property
Exhibit B:	Approved Development Budget
Exhibit C:	Schedule of Performance
Exhibit D:	Form of Promissory Note
Exhibit E:	Form of Deed of Trust
Exhibit F:	Form of Regulatory Agreement
Exhibit G:	LATCF Requirements
Exhibit H:	Statement of Residual Receipts
Exhibit I:	Levine Act- Campaign Contribution Disclosure

ARTICLE 2. FUNDING PROVISIONS

Section 2.1 Loan.

Subject to the satisfaction of the conditions set forth in this Article, the County shall loan to the Developer the County Loan in the principal amount not to exceed Five Million Dollars \$5,000,000 for the purposes set forth in Section 2.6 of this Agreement. Developer's obligation to repay the Loan is evidenced and secured by a Deed of Trust.

Section 2.2 Interest.

(a) Subject to the provisions of Subsection (b) below, simple interest will accrue on the outstanding principal balance of the Loan at a per annum rate of simple interest equal to three percent (3%) commencing on the date of each disbursement.

(b) Upon the occurrence of an Event of a Default, interest on the Loan will begin to accrue, beginning on the date of such occurrence and continuing until the date the Loan is repaid in full or the Event of Default is cured, at the "Default Rate" defined in section 6.2(a)(v) below.

Section 2.3 Use of Loan Funds.

(a) Allowable Uses. The Developer may use the Loan to fund the predevelopment, construction and permanent financing of the Development consistent with the Approved Development Budget and consistent with the LATCF Guidelines.

(b) No Other Uses. Developer may not use the Loan proceeds for any other purposes without the prior written consent of the County.

(c) Use in Compliance with Regulations and Notice. During the entire Term, the Developer shall comply with the Regulatory Agreement and this Agreement in the use of the Loan funds.

Section 2.4 Security.

(a) During Construction. Subject to Section 2.5 below, the Deed of Trust will secure the Loan. At the Construction Closing, the Deed of Trust shall be recorded against the Developer's interest in the Property. Developer shall secure its obligation to repay the Loan by executing the Deed of Trust, and causing or permitting it to be recorded as a lien against the Developer's interest in the Property in lien priority approved by the County in such relationship to the other Approved Financing liens as the County approves. Developer shall also cause or permit the Regulatory Agreement to be recorded against the Developer's interest in the Property, in a lien position approved by the County.

Section 2.5 Subordination.

(a) Any agreement by the County to subordinate the Deed of Trust to an encumbrance securing and/or evidencing Approved Financing (each such Approved Financing, a "Senior Loan"), will be subject to the satisfaction of each of the following conditions:

(1) All of the proceeds of the proposed Senior Loan, less any transaction costs, are used to provide acquisition, construction and/or permanent financing for the Development;

(2) The proposed lender of a Senior Loan (each a "Senior Lender") must be a state or federally chartered financial institution, a nonprofit corporation or a public entity that is not affiliated with Developer or any of Developer's Affiliates, other than as a depositor or a lender, except as may otherwise be permitted by the County, at its sole and absolute discretion;

(3) Developer demonstrates to the County's satisfaction that subordination of the Deed of Trust is necessary to secure adequate acquisition, construction and/or permanent financing to ensure the viability of the Development, including the operation of the Development as affordable housing, as required by the County Documents. To satisfy this requirement, Developer must provide to the County, in addition to any other information reasonably required by the County, evidence demonstrating that the proposed amount of the Senior Loan is necessary to provide adequate acquisition, construction and/or permanent financing to ensure the viability of the Development, and adequate financing for the Development would not be available without the proposed subordination;

(4) The subordination agreement(s) is structured to minimize the risk that the Deed of Trust will be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Loan. To satisfy this requirement, the subordination agreement must provide the County with adequate rights to cure any defaults by Developer, including:

(i) providing the County or its successor with copies of any notices of default at the same time and in the same manner as provided to Developer; and (ii) providing the County with a cure period of at least sixty (60) days to cure any default;

(5) The subordination(s) of the Loan is effective only during the original term of the Senior Loan and any extension of its term that is approved in writing by the County;

(b) No subordination may limit the effect of the Deed of Trust before a foreclosure, nor require the consent of the Senior Lender prior to the County exercising any remedies available to the County under the County Documents; and

(c) Upon a determination by the County Chief Executive Officer or the Community Development and Housing Department (CDH) Director that the conditions in this Section have been satisfied, the County Chief Executive Officer or the Community Development and Housing Department (CDH) Director, or his/her designee, will be authorized to execute the approved subordination agreement without the necessity of any further action or approval by the Board of Supervisors. Execution of any subordination agreement will evidence and constitute the determination of the County that all requirements of this Section 2.5 have been satisfied or waived.

(d) The County acknowledges that it may be requested to subordinate its Regulatory Agreement, as required by HCD and CalHFA, and the consent to the subordination will not be unreasonably conditioned, delayed or withheld.

Section 2.6 Conditions Precedent to Disbursement of Loan Funds.

(a) The disbursements made pursuant to this Section 2.6 may not exceed the amount of the Loan and shall only be requested at such time they are needed by the Developer to pay eligible costs. The County shall disburse the Loan into Escrow in two components: (i) a "Construction Component" in the amount of Four Million Five Hundred Thousand Dollars (\$4,500,000); and (iii) a "Completion Component" in the amount of Five Hundred Thousand Dollars (\$500,000). The division of the Loan between the Construction Component and the Completion Component may be readjusted by the County Chief Executive Officer, Community Development and Housing Department (CDH) Director, on behalf of the County without the need for formal amendment of this Agreement. The Completion Component at Permanent Closing subject to the conditions precedent set forth in subsection (d).

(b) Construction Component. The County is not obligated to make a disbursement of the Construction Component prior to the Construction Closing, or to take any other action under the County Documents unless the following conditions precedent are satisfied prior to each such disbursement of the Loan funds:

(1) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement, or any other financing agreements or contracts between the County and Developer or its Affiliates relating to the Development;

(2) The Developer holds, or along with the first disbursement will hold, good and marketable fee interest to the Property;

(3) Developer has delivered to the County a copy of Developer's organizational documents and a corporate authorizing resolution authorizing Developer's execution of the County Documents and the transactions contemplated by the County Documents;

(4) County has received and approved any necessary updates to the Approved Development Budget;

(5) The County has received a copy of the General Contractor's Construction Contract as required pursuant to Section 3.3 below, including evidence that the Major Trades have been properly bid, and all contractors and subcontractors have registered with the DIR in compliance with Labor Code Section 1771.1;

(6) The County has received and approved the labor and material (payment) bonds or alternative security as required pursuant to Section 3.5 below;

(7) Developer has executed a Partnership Agreement approved by the County, with the Investor Limited Partner, in which the Investor Limited Partner is obligated to provide Developer the equity contribution in the Approved Development Budget;

(8) Developer has closed, or is concurrently closing, on the construction loans and is eligible to receive the proceeds of all construction loans and has received, or is concurrently receiving, the amount of tax credit equity stated as the first installment in the Partnership Agreement;

(9) Developer has obtained all permits and approvals necessary for the construction of the Development, as required by Section 3.2, provided however the Developer may satisfy this requirement with regards to the building permit, if the Developer provides the County with a permit ready letter from the City Building Department;

(10) The Developer has submitted a certification from the architect or the Certified Access Specialist certifying that the Units have been designed in compliance with Section 3.8(f) of this Agreement or has provided the County with other evidence that the Project has been designed to comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, et seq.) and the Uniform Federal Accessibility Standards (UFAS);

(11) Developer has submitted a certification from the architect certifying that the plans and specifications and design documents for the Development provide for the Units to be constructed in compliance with Section 3.8(g) of this Agreement;

(12) Developer has furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.15 below;

(13) Developer has caused to be executed and delivered to the County the County Documents and any other instruments, and policies required under the County Documents;

(14) The Deed of Trust and the Regulatory Agreement have been recorded against the Developer's interest in the Property in the Office of the Recorder of San Bernardino County in a lien position approved by the County, and recorded copies have been delivered to the County;

(15) Developer is in compliance with the Schedule of Performance;

(16) All environmental review necessary for the construction of the Development has been completed, and Developer has provided the County evidence of compliance with all CEQA mitigation measures;

(17) There exists no material adverse change in the financial condition of Developer from that shown by the financial statements and other data and information furnished by Developer to the County prior to the date of this Agreement;

(18) The County has determined the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that Developer has obtained in connection with the acquisition and construction of the Development, are not less than the amount the County determines is necessary to pay for the acquisition and construction of the Development and to satisfy all of the covenants contained in this Agreement and the Regulatory Agreement;

(19) A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing an LP-10 2006 ALTA Lender's Policy of title insurance insuring the priority of the Deed of Trust in the amount of the Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. The Developer shall provide whatever documentation (including an indemnification agreement), deposits or surety is reasonably required by the title company in order for the County's Deed of Trust to be senior in lien priority to any mechanics liens in connection with any start of construction that has occurred prior to the recordation of the Deed of Trust against the Property in the Office of the Recorder of the San Bernardino County; and

(20) The County has received a written draw request from Developer, including: (i) certification that the condition set forth in Section 2.6(b)(1) continues to be satisfied; (ii) certification that the proposed uses of funds consistent with the Approved Development Budget; (iii) the amount of funds needed; and (iv) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. Draw Requests will be limited to one every 30 day. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (A) certification by the Developer's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Property and make an independent evaluation); and (B) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

(c) Completion Component. The County is not obligated to make a disbursement of the Completion Component at Permanent Closing, or to take any other action under the County Documents unless the following conditions precedent are satisfied prior to each such disbursement of the Loan funds:

(1) All requirements set forth in Section 2.6(b) have been and continue to be satisfied and there exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement;

(2) The County has received a copy of the Certificate of Occupancy issued by the City for the Development;

(3) The County has received satisfactory evidence that the Units are rented to eligible tenants at the required rents in compliance with the requirements of this Agreement and the Regulatory Agreement;

(4) The Developer has satisfied all conditions for the receipt of the installment of the Tax Credit Investor Equity attributable to conversion of the Construction Loan to permanent financing, consistent with Developer's Partnership Agreement;

(5) The County has received from Developer current evidence of the insurance coverage meeting the requirements of Section 4.15 below;

(6) The County has received and approved a report setting forth: (i) the income, household size, race, and ethnicity of Residents of the Units; (ii) the unit size, rent amount and utility allowance for all Units; and (iii) the accessible units in the Development pursuant to Section 3.8(g);

(7) The County has received a draft of the Final Cost Certification for the Development from Developer showing all uses and sources;

(8) The County has received from Developer and approved a form of Resident lease;

(9) The County has received from Developer and approved the Marketing Plan;

(10) The County has received from Developer and approved a copy of the Services Plan for the provision of service to residents;

(11) The County has received from Developer all relevant contract activity information, including compliance MBE/WBE requirements;

(12) Developer has submitted a certification from the architect or a Certified Access Specialist certifying that the Project has been constructed in compliance with Section 3.8(f) of this Agreement or has provided the County with other evidence that the Project, as built, complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, et seq.) and the Uniform Federal Accessibility Standards (UFAS);

(13) Developer has submitted a certification from the architect certifying that the Units have been constructed in compliance with Section 3.8(g) of this Agreement;

(14) The County has received from Developer a copy of the management agreement and contact information for the property manager of the Development and the name and phone number of the on-site property manager;

(15) To the extent required, the Developer has submitted copies of all certified payrolls to the County, and any identified payment issues have been resolved, or Developer is working diligently to resolve any such issues;

(16) The County has received a written draw request from Developer, including (1) certification that the conditions set forth in Section 2.6(a) continue to be satisfied, (2) certification that the proposed use of funds is consistent with the Approved Development Budget, (3) the amount of funds needed, and, (4) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred.

(d) The Developer hereby agrees and acknowledges that the County will have not less than forty-five days (45) days from the date the County receives a completed draw request to disburse funds under this Section 2.6.

(e) All funds to be disbursed pursuant to this Agreement shall be available to be disbursed to a Senior Lender, if and to the extent, the Senior Lender takes over the construction of the Development, the Senior Lender agrees to be bound to the terms hereof and the Senior Lender has cured any Event of Default of the Developer.

(f) Notwithstanding anything to the contrary herein, at the County's sole and absolute discretion, the County may elect to release one-half of the Completion Component within thirty (30) business days of receipt of a final certificate of occupancy for the Development.

Section 2.7 Repayment Schedule.

(a) Annual Payments. Commencing on April 1st of the year following the Completion of Construction, and on April 1st of each year thereafter during the Term, Developer shall make a Loan payment in an amount equal to the County's Prorata Percentage of Lenders' Share of Residual Receipts for the previous calendar year (each, an "Annual Payment"). The Annual Payment is estimated . The County shall apply all Annual Payments first, to accrued interest, and second, to principal. On or prior to the date that Developer pays its Annual Payment, Developer shall submit the following to the County:

(1) The Statement of Residual Receipts for the relevant period, for the subject property and the status of all reserve funds, including without limitation;

(2) A statement from the independent public accountant that audited the Developer's financial records for the relevant period, which statement must confirm that Developer's calculation of the Lenders' Share of Residual Receipts is accurate based on Gross Revenue and Annual Operating Expenses; and

(3) Any additional documentation reasonably required by the County to substantiate Developer's calculation of Lenders' Share of Residual Receipts.

(b) Special Repayment From Net Proceeds. Subject to the rights of Senior Lenders, and to the extent of additional subordinate Loan proceeds, equity or surplus development sources following the Final Cost Certification, no later than ten (10) days after the

date Developer receives its final Tax Credit Investor Equity contribution, Developer shall pay to the County as a special repayment of the Local Loans, their prorata percentage of the of the Net Proceeds of Permanent Financing (resulting from dividing their respective Loan funds disbursed to Developer by the sum of the Local Loans actually disbursed), as a special repayment of the Loan and the other Local Loans. No later than one hundred twenty (120) days following completion of construction of the Development, Developer shall submit to the County for its review a preliminary calculation of the Net Proceeds of Permanent Financing and a draft of the Final Cost Certification as defined Section 4.1 below. The County shall approve or disapprove Developer's determination of the amount of the Net Proceeds of Permanent Financing in writing within thirty (30) days of receipt. If Developer's determination is disapproved by the County, Developer shall re-submit documentation to the County until the County approval is obtained. Subject to the rights of Senior Lenders, notwithstanding anything to the contrary, the Developer may request a deduction from the Net Proceeds of Permanent Financing to reduce the outstanding balance of the Deferred Developer Fee (subject to the restrictions in Section 3.16 hereof) upon approval from the County, which approval shall not be unreasonably withheld.

(c) Payment in Full. Developer shall pay all outstanding principal and accrued interest on the Loan, in full, on the earliest to occur of: (1) an Event of Default; and (2) the expiration of the Term.

(d) Prepayment. Developer may prepay the Loan at any time without premium or penalty. However, the Regulatory Agreement and the Deed of Trust will remain in effect for the entire Term, regardless of any prepayment.

Section 2.8 Non-Recourse.

Except as provided below, upon recordation of the Deed of Trust against the Property, neither Developer, nor any partner of Developer, will have any direct or indirect personal liability for payment of the principal of, and interest on, the Loan or the performance of the covenants of Developer under the Deed of Trust. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, or interest on, the Note and defaults by Developer in the performance of its covenants under the Deed of Trust will be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability limits or impairs the enforcement of all the rights and remedies of the County against all such security for the Note, or impairs the right of County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation to repay the principal of, and payment of interest on the Note and the performance of Developer's obligations under the Deed of Trust. Except as hereafter set forth; nothing contained herein is intended to relieve Developer of its obligation to indemnify the County under Sections 3.8, 4.6, 4.7, and 7.4 of this Agreement, or liability for: (a) loss or damage of any kind resulting from waste, fraud or willful misrepresentation; (b) the failure to pay taxes, assessments or other charges 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); (c) the fair market value of any personal property or fixtures removed or disposed of by Developer other than in accordance with the Deed of Trust; and (d) the misappropriation of any proceeds under any

insurance policies or awards resulting from: (i) condemnation or the exercise of the power of eminent domain; or (ii) damage, loss, or destruction to any portion of the Property.

ARTICLE 3. CONSTRUCTION OF THE DEVELOPMENT

Section 3.1 Schedule of Performance.

Developer shall perform the tasks described in the Schedule of Performance no later than the dates set forth in the Schedule of Performance, subject to Section 7.15. The Schedule of Performance may be modified in writing by the County Chief Executive Officer or the Community Development and Housing Department (CDH) Director on behalf of the County without the need for formal amendment of this Agreement or further approval by the Board of Supervisors.

Section 3.2 Permits and Approvals.

Developer shall obtain all permits and approvals and shall have processed all subdivision maps necessary for the construction of the Development no later than the date set forth in the Schedule of Performance.

Section 3.3 Construction Contract.

(a) Not later than thirty (30) days prior to the proposed Commencement of Construction, Developer shall submit to the County for its approval a draft of the proposed construction contract for the Development (the "Construction Contract") with Developer's general contractor (the "General Contractor"). All construction work and professional services are to be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. The Construction Contract is to provide the guaranteed maximum construction cost or stipulated sum consistent with the Approved Development Budget and at least ten percent (10%) of the hard costs incurred will be payable only upon completion of the construction, or such other amount that may be allowed under the Senior Loan subject to written approval by the County. The County's approval of the Construction Contract may not be deemed to constitute approval of or concurrence with any term or condition of the Construction Contract except as such term or condition may be required by this Agreement.

(b) The Developer will ensure that the Contractor ensures that all subcontracts and suppliers are competitively bid out by the Contractor, and subject to the approval of lenders, investors and regulators and subject to the requirements set forth in this Section. The Developer shall provide the County with the bid package for review.

(c) All Construction Work and professional services shall be performed by persons or entities licensed or otherwise authorized to perform the applicable Construction Work or service in the State of California. Developer shall provide the County a copy of the general contractor's license not later than ten (10) days prior to the Construction Closing.

(d) Developer shall use its best efforts to coordinate with the local County Workforce Development Department (WDD), and all other applicable County requirements, to

maximize the practicable opportunity to participate in the construction of the Development. Developer shall, at a minimum, make contact with the County WDD and provide project information for local hire opportunities. Documentation of such notifications must be maintained by Developer and available to the County as requested.

Section 3.4 Bid Package.

The Developer shall cause Developer's General Contractor to provide the Bid Package to all subcontractors, as required under Section 3.3(b). The County Chief Executive Officer, or Community Development and Housing Director, shall approve or disapprove the Bid Package within fifteen (15) days after receipt of the Bid Package by the County. If the County rejects the proposed Bid Package the reasons therefore must be given to Developer. Developer will then have fifteen (15) days to review and approve Developer's new or corrected Bid Package. The provisions of this Section will continue to apply until a proposed Bid Package has been approved by the County. Developer may not publish a proposed Bid Package until it has been approved by the County.

Section 3.5 Construction Bonds.

(a) As a condition precedent to the first draw request under the Construction Component of the Loan, the Developer shall deliver to the County copies of labor and material bonds and performance bonds for the construction of the Development in an amount equal to one hundred percent (100%) of the scheduled cost of the construction of the Development. The bonds required under this Section shall be issued by a surety licensed to do business in California and reasonably acceptable to the County. Such bonds must name the County as a co-obligee.

(b) The County shall either reasonably approve or disapprove the submitted proposed Construction Bonds within fifteen (15) days from the date the County receives the Construction Bonds. If the proposed Construction Bonds are not approved by the County, then the County shall notify the Developer in writing of the reasons for disapproval and the required revisions to the previously submitted Construction Bonds. The Developer shall thereafter submit revised proposed Construction Bonds within fifteen (15) days of the notification of disapproval. The County shall either approve or disapprove the submitted revised Construction Bonds within fifteen (15) days of the date such revised Construction Bonds are received by the County. The County shall approve the initial or revised Construction Bonds if they meet the standards set forth in subsection (a) above. Such County-approved bonds shall be delivered to the County prior to, or in conjunction with, the Construction Closing. Notwithstanding the foregoing, the County shall consider other reasonable forms of security for the completion of the construction of the Improvements, from either the Developer or the Developer's general contractor, in lieu of such Construction Bonds described in this section provided that: (i) the Investor and all lenders set forth on the Approved Development Budget have agreed to such other security, and (ii) the County has the same enforcement rights under such security as the Investor and all lenders set forth in the Approved Development Budget.

Section 3.6 Commencement of Construction.

Developer shall cause the Commencement of Construction of the Development no later than the date set forth in the Schedule of Performance, which in no event shall be any later than

twelve (12) months from the Effective Date. For the purposes of this Agreement, "Commencement of Construction" means the date set for the start of construction of the Development in the notice to proceed issued by Developer to Developer's general contractor.

Section 3.7 Completion of Construction.

For purposes of this Agreement, "Completion of Construction" means the following:

(a) Developer shall diligently prosecute construction of the Development to completion, and shall cause the completion of the construction of the Development no later than the date set forth in the Schedule of Performance.

(b) Developer shall record a Notice of Completion within ten (10) days of completion of construction of the Development and provide the County a copy of the recorded Notice of Completion.

(c) Developer shall provide the County a copy of the Certificate of Occupancy, or other evidence of completion of the Development within ten (10) days of receipt from the City.

Section 3.8 Construction Pursuant to Plans and Laws; Prevailing Wages; Accessibility.

(a) Changes. Developer shall construct the Development in conformance with the Construction Plans approved by the City's Building Department. Developer shall notify the County in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the Construction Plans. A written change order authorized by the County must be obtained before any of the following changes, additions, or deletions in work for the Development may be performed: (1) any change in the work the cost of which exceeds Seventy-Five Thousand Dollars (\$75,000); or (2) any set of changes in the work the cost of which cumulatively exceeds Two Hundred Fifty Thousand Dollars (\$250,000). Consent to any additions, changes, or deletions to the work do not relieve or release Developer from any other obligations under this Agreement, or relieve or release Developer or its surety from any surety bond.

(b) Compliance with Laws. To the extent applicable, Developer shall cause all work performed in connection with the Development to be performed in compliance with all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter including without limitation and to the extent applicable, (1) the property standards adopted by the County in conformance therewith; and (2) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work will proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Developer shall be responsible to the agency for the procurement and maintenance thereof, as may be required of Developer and all entities engaged in work on the Development.

(c) Prevailing Wages. To the extent applicable, Developer shall and shall cause its respective contractors and subcontractors to pay prevailing wages in performing the development activities as may be required under federal Davis-Bacon Act (40 USC 3141-3148) and the labor compliance provisions in the attached Exhibit H incorporated herein by this reference, and pursuant to Labor Code Sections 1720 et seq. (the "Prevailing Wage Requirements"), and the implementing regulations of the Department of Industrial Relations (the "DIR"), to employ apprentices as required by Labor Code Sections 1777.5 et seq., and the implementing regulations of the DIR and comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., 1810-1815, and implementing regulations of the DIR. To the extent Prevailing Wage Requirements are applicable, Developer shall and shall cause its respective contractors 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 1720 et seq., and that apprentices have been employed as required by Labor Code Section 1777.5 et seq., and shall, from time to time upon the request of the County provide to the County such records and other documentation reasonably requested by the County. Copies of the currently applicable per diem prevailing wages are available from the County. To the extent Prevailing Wage Requirements are applicable, Developer shall post the applicable prevailing rates of per diem wages at the project site. To the extent Prevailing Wage Requirements are applicable, Developer shall cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. In addition and only to the extent Prevailing Wage Requirements are applicable, Developer shall cause its respective contractors and subcontractors to do all the following:

(1) All calls for bids, bidding materials and the construction contract documents for the Development must specify that: (i) No contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Development unless registered with the DIR pursuant to Labor Code Section 1725.5; and (ii) The Development is subject to compliance monitoring and enforcement by the DIR;

(2) To the extent required by law: (i) Developer is required to provide the County all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within two (2) days of the award of the contract (<https://www.dir.ca.gov/pwc100ext/>); (ii) Developer shall cause its respective contractors to post job site notices, as prescribed by applicable DIR regulations; and (iii) Developer shall cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner:

(d) Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County and its boardmembers, officers and employees 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 Developer, its consultants and contractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq. and prevailing wage requirements of the federal Davis-Bacon Act (40 USC 3141-3148), to employ apprentices pursuant to Labor Code Sections 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and the implementing regulations of the DIR in connection with the

performance of the development activities or any other work undertaken or in connection with the Property. The requirements in this subsection survive the repayment of the Loan, and the reconveyance of the Deed of Trust.

(e) Accessibility Requirements. The Developer shall construct the Development to comply with all applicable federal and state disabled persons accessibility requirements including but not limited to the Federal Fair Housing Act, Section 504 of the Construction Act of 1973, Title II and/or Title III of the Americans with Disabilities Act of 1990, Title 24 of the California Code of Regulations and the Uniform Federal Accessibility Standards ("UFAS"). In compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, et seq.), a minimum of five percent (5%) of all Units (or five (5) Units) shall be constructed to be fully accessible to households with a mobility impaired member and an additional two percent (2%) of all Units (or two (2) Units) shall be fully accessible to hearing and/or visually impaired persons. All Units in the Development shall also be built to comply with the Uniform Federal Accessibility Standards under 49 C.F.R. 31528.

Section 3.9 Equal Opportunity.

(a) During the construction of the Development there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, or source of income, in the hiring, firing, promoting or demoting of any person engaged in the construction work.

(b) In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, program participants shall not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. A faith-based organization that is a recipient or subrecipient of HOME funds is eligible to use such funds as provided under the regulations of this part without impairing its independence, autonomy, expression of religious beliefs, or religious character. Such organization will retain its independence from federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law. Among other things, faith-based organizations may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a HOME program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

Section 3.10 Minority and Women-Owned Contractors.

Developer shall use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the construction of the Development. Developer shall, at a minimum, notify applicable minority-owned and women-owned business firms located in San Bernardino County of bid opportunities for the construction

of the Development. A listing of minority owned and women owned businesses located in the County and neighboring counties is available from the County. Documentation of such notifications must be maintained by Developer and available to the County as requested.

Section 3.11 Progress Reports.

From the date of execution of this Agreement and until such time as Developer has received a Certificate of Occupancy from the City for the Development, Developer shall provide the County with quarterly progress reports regarding the status of the construction of the Development, including a certification that the actual construction costs to date conform to the Approved Development Budget, as it may be amended from time to time pursuant to Section 3.15 below.

Section 3.12 Construction Responsibilities.

(a) Developer is responsible for the coordination and scheduling of the work to be performed so that commencement and completion of the construction of the Development will take place in accordance with this Agreement.

(b) Developer is solely responsible for all aspects of Developer's conduct in connection with the Development, 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 the County with reference to the Development is solely for the purpose of determining whether Developer is properly discharging its obligations to the County, and may not be relied upon by Developer or by any third parties as a warranty or representation by the County as to the quality of the design or construction of the Development.

Section 3.13 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Property or a stop notice affecting the Loan is served on the County or any other lender or other third party in connection with the Development, then Developer shall, within thirty (30) days after 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 the County a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to the County that the claim of lien or stop notice will be paid or discharged.

(b) If Developer fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the County may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at Developer's expense. Alternately, the County may require Developer to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Developer.

(c) Developer shall file a valid notice of cessation or notice of completion upon cessation of construction work on the Development for a continuous period of thirty (30) days or more, and take all other steps necessary to forestall the assertion of claims of lien against the Property. Developer authorizes the County, but the County has no obligation, to record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Development and Property.

Section 3.14 Inspections.

(a) Developer shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Development, during construction and after completion of construction, by the County and by any public authorities during reasonable business hours for the purposes of determining compliance with this Agreement upon not less than forty-eight (48) hours' notice. Developer agrees and acknowledges that the County must conduct or cause to be conducted on-site inspections. Such inspections shall occur no earlier than 12-months following the completion of the construction of the Development and at least once every three (3) years thereafter.

(b) After the completion of an inspection the County shall deliver a copy of the Uniform Physical Conditions Standards inspection report, in a form provided by the County, to the Developer. If the County determines as a result of such inspection that there are any life-threatening health and safety-related deficiencies, Developer has the obligation to correct such deficiencies immediately. If the County determines as a result of the inspection that there are any deficiencies for any of the inspectable items in the Development, the Developer shall correct such deficiencies within thirty (30) days from the delivery of the inspection report or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then Developer must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible. In addition, the Developer acknowledges that the County may re-inspect the Development to verify all deficiencies have been corrected or rely on third party documentation submitted by the Developer for non-hazardous deficiencies.

Section 3.15 Approved Development Budget; Revisions to Budget.

As of the date of this Agreement, the County has approved the Approved Development Budget set forth in Exhibit B, incorporated herein by this reference. The parties agree and acknowledge that the County Chief Executive Officer or the Community Development and Housing Department (CDH) Director, in consultation with County Counsel, may replace the Approved Development Budget attached here to As Exhibit B, as necessary to reflect changes that occur between the Effective Date and the closing of the development financing. Developer shall submit any proposed or required amendments to the Approved Development Budget, along with evidence that the changes to the Approved Development Budget are reasonable and necessary, to the County for approval within five (5) days of the date Developer receives information indicating that actual costs of the Development materially vary or will vary from the costs shown on the Approved Development Budget, which approval shall not be unreasonably withheld or delayed. Written consent of the County will be required to amend the Approved Development Budget. The County will make best efforts to respond in writing within seven (7) days after receipt of a proposed amendment to the Approved Development Budget.

Section 3.16 Developer Fee.

(a) The maximum cumulative Developer Fee that may be paid to any entity or entities providing development services to the Development, whether paid up-front or on a deferred basis, may not exceed Two Million Seven Hundred Thirty One Thousand Eight Hundred Thirty Three Dollars (\$2,731,833), of which up to Two Million Five Hundred Thousand (\$2,500,000) can be paid up-front, any Developer Fee in excess thereof must be deferred and paid from the Borrower's share of residual receipts. For the purposes of this Agreement "Developer Fee" has the meaning set forth in California Code of Regulations, Title 4, Section 10302. Except for the Developer Fee and amounts payable to the General Contractor under the Construction Contract, no compensation from any source shall be received by or be payable to the Developer or any affiliate of the Developer in connection with the provision of development and construction management services for the acquisition and construction of the Development.

(b) Cost savings at completion. Subject to the rights of Senior Lenders, pursuant to Section 2.7(c), the Developer may request to reduce the outstanding balance of the Deferred Developer Fee subject to the County's reasonable approval. Although no County approval is required in order to increase the Deferred Developer Fee, the Developer shall notify the County of any change to the amount of Deferred Developer Fee.

Section 3.17 Marketing Plan.

(a) No later than six (6) months prior to the projected date of the Completion of Construction of the Improvements, Developer shall submit to the County for approval its plan for marketing the Development to income-eligible households as required pursuant to the Regulatory Agreement, including information on affirmative marketing efforts and compliance with fair housing laws (the "Marketing Plan").

(b) Upon receipt of the Marketing Plan, the County will promptly review the Marketing Plan and will approve or disapprove it within fifteen (15) days after submission. If the Marketing Plan is not approved, Developer shall submit a revised Marketing Plan within fifteen (15) days. Developer shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the County.

Section 3.18 Resident Services Plan and Budget.

(a) Developer will be providing on-site services to all tenants in the Development (the "Resident Services"). No later than six (6) months prior to the projected date of the Completion of Construction of the Improvements, Developer shall submit to the County for approval a proposed services plan which shall include written guidelines or procedures for providing the Resident Services (the "Services Plan"), and a proposed budget for the provision of Resident Services (the "Services Budget").

(b) The Services Plan shall include the types of Resident Services provided, staffing levels (including caseload and hours of employment), and overall coordination of the Resident Services.

(c) The Services Budget shall show required expenditures from Annual Operating Expenses in an approximate amount of approximately Ninety-Six Thousand Three Hundred Forty-Eight Dollars (\$96,348) (\$3,212 per Unit) subject to an annual increase that is equal to the greater of three percent (3%) or the percentage increase in CPI to fund Resident Services.

(d) Upon receipt of the proposed Services Plan and Services Budget, the County shall promptly review the proposed Services Plan and Services Budget and shall approve or disapprove them within thirty (30) days after submission. If either the Services Plan or Services Budget is not approved, the Developer shall submit a revised Services Plan and/or Services Budget within thirty (30) days following the Developer's receipt of the County's written disapproval. If the County does not approve the revised Services Plan and/or Services Budget because the Developer fails to make specific revisions requested by the County, the Developer shall be in default hereunder.

ARTICLE 4. LOAN REQUIREMENTS

Section 4.1 Financial Accountings and Post-Completion Audits.

(a) No later than ninety (90) days following issuance of the Certificate of Occupancy for the Development, Developer shall provide to the County for its review and approval a financial accounting of all sources and uses of funds for the Development.

(b) No later than one hundred eighty (180) days following Completion of Construction of the Development, or such other period as may be allowed by TCAC for a similar requirement, Developer shall submit an audited financial report showing the sources and uses of all funds utilized for the Development. This requirement may be satisfied by providing the Final Cost Certification to the County. "Final Cost Certification" means the Final Cost Certification Sources and Uses of Funds prepared by Developer for the Development that: (1) Developer submits to TCAC; and (2) has been prepared using generally accepted accounting procedures in effect in the United States from time to time, consistently applied.

Section 4.2 Annual Operating Budget.

At least sixty (60) days prior to the end of each of the Developer's fiscal year, Developer shall provide to the County an annual budget for the operation of the Development. Unless rejected by the County in writing within fifteen (15) days after receipt of the budget, the budget will be deemed accepted. If rejected by the County in whole or in part, Developer shall submit a new or corrected budget within thirty (30) calendar days of notification of the County's rejection and the reasons therefor. The provisions of this Section relating to time periods for resubmission of new or corrected budgets will continue to apply until such budget has been approved by the County.

Section 4.3 Information.

Developer shall provide any information related to the Development reasonably requested by the County in connection with the Development, including (but not limited to) any information required by HUD in connection with Developer's use of the Loan funds.

Section 4.4 Records.

(a) Developer shall keep and maintain at the Development, or at the corporate offices of the Developer's general partner, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Developer's calculation of Residual Receipts, and disbursements of Residual Receipts. Books, records and accounts relating to Developer's compliance with the terms, provisions, covenants and conditions of this Agreement. All applicable financial documents are to be kept and maintained in accordance with generally accepted accounting principles consistently applied. All such books, records, and accounts are to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Developer shall preserve such records for a period of not less than five (5) years after the creation of such records in compliance with all HUD records and accounting requirements. Copies of all tax returns and other reports that Developer may be required to furnish to any governmental agency are to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of Developer are kept. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Loan is pending at the end of the record retention period stated herein, then Developer shall retain the records until such action and all related issues are resolved. The records are to include all invoices, receipts, and other documents related to expenditures from the Loan funds. Such records are to include but are not limited to:

- (1) Records providing a full description of the activities undertaken with the use of the Loan funds.
- (2) Records demonstrating compliance with County and HUD property standards and lead-based paint requirements, including, as applicable, the Uniform Physical Conditions Standards;
- (3) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;
- (4) Records demonstrating compliance with the Resident Selection Plan;
- (5) Records demonstrating compliance with MBE/WBE requirements, if applicable;
- (6) Records demonstrating compliance with applicable relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments;

(7) Records demonstrating compliance with applicable labor requirements including certified payrolls from Developer's General Contractor evidencing that applicable prevailing wages have been paid.

(b) The County shall notify Developer of any records it deems insufficient. Developer has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Developer must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Section 4.5 County Audits.

(a) Each year, Developer shall provide the County with a copy of Developer's annual audited financial statements, which is to include information on all of Developer's activities, in addition the Developer's general partners shall submit audited financial statements and the Developer and the Developer's general partners shall submit all other financial information pertaining to the Development as is reasonably requested by the County determined by the County.

(b) In addition, the County or any designated agent or employee of the County at any time, upon three-business days' prior written notice, is entitled to audit the Residual Receipts of the Development, and all of Developer's books, records, and accounts pertaining to the Development, excluding any privileged or confidential materials. Such audit is to be conducted during normal business hours at the principal place of business of Developer and other places where records are kept. Immediately after the draft completion of an audit, the County shall deliver a copy of the results of the audit to Developer. If it is determined as a result of such audit that there has been a deficiency in a Loan repayment to the County, then such deficiency will become immediately due and payable with interest at the Default Rate from the date the deficient amount should have been paid. In addition, if any audit conducted pursuant to this Section 4.5 determines that Residual Receipts have been understated for any fiscal year by more than five percent (5%), then the Developer shall pay, in addition to the amounts set forth above, all of the costs and expenses incurred by the County in connection with the audit and review of Developer's accounts or records. In addition, upon the occurrence of an uncured Event of Default, the County or any designated agent or employee of the County at any time, upon three-business days' prior written notice, is entitled to audit all of books, records, and accounts pertaining to any of the Sponsor's development activities, excluding any privileged or confidential materials.

(c) If Developer contests the draft conclusions of any audit, Developer shall have thirty (30) days to provide the County and its auditor with a detailed explanation of its position and supporting documentation. The County and its auditor shall consider Developer's position in good faith. At any party's request, Developer and the County (and/or their respective auditors or accountants) shall meet to resolve factual or interpretive disputes, following which the County shall notify Developer of final audit conclusions. Developer shall be deemed to have acceded to such conclusions unless Developer within fifteen (15) days notifies the County of its objection, in which event either party would have such rights and remedies as provided in this Agreement and by applicable law. The County's cost of any review or contest pursuant to this paragraph shall be borne by Developer unless the final audit determines that any understatement

of Residual Receipts by Developer in any fiscal year was less than five percent (5%). Notwithstanding anything to the contrary herein, the Developer shall bear its own costs to review or contest findings made hereunder.

Section 4.6 Hazardous Materials.

(a) Developer shall keep and maintain the Property in compliance with, and may not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Developer may not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in construction of projects like the Development or kept and used in and about residential property of this type.

(b) Developer shall immediately advise the County in writing if at any time it receives written notice of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Developer or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (2) all claims made or threatened by any third party against Developer or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (1) and (2) above are hereinafter referred to as "Hazardous Materials Claims"); and (3) Developer's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" (as defined in California Health and Safety Code Section 25117.4) under the provision of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

(c) The County has the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Developer. Developer shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (1) all foreseeable consequential damages; (2) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans and (3) all reasonable costs and expenses incurred by the County in connection with clauses (1) and (2), including but not limited to reasonable attorneys' fees and consultant's fees; provided, however, that Developer shall have no obligation to indemnify or hold harmless the County with respect to conditions that first existed on the Property prior to the "Commencement Date" as

defined in the ground lease by which Developer has obtained an interest in the Property, unless and to the extent liability arises from the Developer's failure to address such conditions in the manner required by law. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (A) losses attributable to diminution in the value of the Property; (B) loss or restriction of use of rentable space on the Property; (C) adverse effect on the marketing of any rental space on the Property; and (D) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify will survive termination of this Agreement.

(d) Without the County's prior written consent, which will not be unreasonably withheld, Developer may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Developer shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if: (1) a particular remedial action is ordered by a court of competent jurisdiction; (2) Developer will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (3) Developer establishes to the satisfaction of the County that there is no reasonable alternative to such remedial action which would result in less impairment of the County's security hereunder; or (4) the action has been agreed to by the County.

(e) Developer hereby acknowledges and agrees that: (1) this Section is intended as the County's written request for information (and Developer's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and (2) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(f) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (1) waive its lien on such environmentally impaired or affected portion of the Property; and (2) exercise (i) the rights and remedies of an unsecured creditor, including reduction of its claim against Developer to judgment, and (ii) any other rights and remedies permitted by law. For purposes of

determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Developer will be deemed to have willfully permitted or acquiesced in a release or threatened release of Hazardous Materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Developer knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) and the maximum rate permitted by law, until paid, will be added to the indebtedness secured by the Deed of Trust and is due and payable to the County upon its demand made at any time following the conclusion of such action.

Section 4.7 Maintenance and Damage.

(a) During the course of both construction and operation of the Development, Developer shall maintain the Development and the Property in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if Developer has not cured such condition within thirty (30) days after receiving written notice from the County of such a condition, if Developer is incapable of curing a default within such thirty (30) day period, the County will give the Developer ninety (90) days to cure such default provided Developer has commenced to cure within such thirty (30) day period and is diligently proceeding to cure such default through the end of such period, then in addition to any other rights available to the County, the County may perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property, subject to the provisions provided in subsection (b) below.

(b) Subject to the requirements of Senior Lenders, and if economically feasible in the County's judgment after consultation with Developer, if any improvement now or in the future on the Property is damaged or destroyed, then Developer shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the County with such changes as have been approved by the County. Such work or repair is to be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the County in writing, after the damage or loss occurs or thirty (30) days following receipt of the insurance proceeds, and is to be completed within one (1) year thereafter. Any insurance proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose, then Developer shall make up the deficiency. If Developer does not promptly make such repairs then any insurance proceeds collected for such damage or destruction are to be promptly delivered by Developer to the County as a special repayment of the Loan, subject to the rights of Senior Lenders, as applicable.

Section 4.8 Fees and Taxes.

(a) Developer is solely 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 Development, and shall pay such charges prior to delinquency. However, Developer is not 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 the County, Developer deposits with the County any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect the County from the consequences of the contest being unsuccessful.

(b) Developer acknowledges that the Developer is prohibited from applying to the State Board of Equalization for a welfare exemption from property taxes under California Revenue and Taxation Code Section 214 for the Development.

Section 4.9 Notice of Litigation.

Developer shall promptly notify the County in writing of any litigation related to the Development, and any litigation related to the Developer for which the amount claimed or at issue is in excess of Fifty Thousand Dollars (\$50,000), and of any claims or disputes that involve a material risk of such litigation.

Section 4.10 Operation of Development as Affordable Housing.

(a) Promptly after completion of construction Developer shall operate the Development as an affordable housing development consistent with: (1) the Regulatory Agreement and any other regulatory requirements imposed on Developer including but not limited to regulatory agreements associated with the Low Income Housing Tax Credits provided by TCAC.

(b) The initial term of the lease for any Unit in the Development is to be for no less than one (1) year, except by mutual agreement between Developer and the Resident. Any Developer termination of a lease agreement for any unit in the Development or refusal to renew must be preceded by not less than sixty (60) days written notice to the Resident by Developer specifying the grounds for the action.

(c) Developer shall provide the County, for its review and approval, with Developer's written tenant selection plan (the "Resident Selection Plan") and the Marketing Plan.

(d) Developer shall evaluate the income eligibility of each Resident household in Units pursuant to the County's approved Resident certification procedures within sixty (60) days before the household's expected occupancy of one of the Units. For all Units, Developer shall certify each Resident household's income on an annual basis.

(e) Developer shall maintain all documents setting forth the household income of each household occupying a Unit, and the total amount for rent, utilities, and related services charged to each household occupying the Development, as prescribed by the Regulatory Agreement and all other recorded regulatory restrictions.

Section 4.11 Nondiscrimination.

(a) Developer herein covenants by and for itself, its heirs, executors, administrators, successors and assigns, and all persons claiming under or through them, that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor may Developer or any person claiming under or through Developer 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 Property. Developer shall comply with Executive Orders 11246, 11375, 11625, 12138, 12431, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and local laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted. The foregoing covenant will run with the land.

Section 4.12 Transfer.

(a) Definition. For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (1) any rights and/or duties under this Agreement; and/or (2) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Developer retains title. The term "Transfer" excludes the leasing of a Unit in the Development to an occupant in compliance with the Regulatory Agreement, and the leasing of any unrestricted units. The County Chief Executive Officer, Community Development and Housing Department (CDH) Director, or the Community Development and Housing Director are authorized to execute assignment and assumption agreements on behalf of the County to implement any approved Transfer.

(b) Prohibition. No Transfer is permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The Loan will automatically accelerate and be due in full upon any Transfer made without the prior written consent of the County.

(c) Permitted Transfers. Notwithstanding the foregoing, the following are permitted Transfers approved by the County (each a "Permitted Transfer"):

(1) The grant of the security interests in the Development for Approved Financing.

(2) The Developer anticipates syndicating partnership interests based in part on the low income housing tax credits that will be generated by the Development. The County hereby approves the admission of an Investor Limited Partner into the Developer, provided that: (i) all documents associated with the admission of an Investor Limited Partner to the Developer, including the Partnership Agreement, are submitted to the County for review and approval, which approval shall not be unreasonably withheld or delayed; (ii) that the Partnership

Agreement and other partnership documents are consistent with and do not conflict with the County Documents and the Approved Development Budget; and (iii) the partnership documents provide for capital contributions by the Investor Limited Partner in the Partnership in amounts not less than those set forth in the Approved Development Budget or as otherwise approved by the County in its reasonable discretion. The County hereby approves the admission of R4 ESCA Acquisition LP, as Investor Limited Partner.

(3) In the event the Developer admits and Investor Limited Partner, the County hereby approves future Transfers of the limited partner interest in the Partnership provided that: (i) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the Partnership Agreement last approved by the County pursuant to Section 2.6(b)(7) or Section 4.14(c)(2); and; (ii) either (A) in subsequent Transfers, a wholly owned affiliate of the initial Investor Limited Partner retains a membership or partnership interest and serves as a managing member or managing general partner of the successor limited partner; or (B) in subsequent Transfers the initial limited partner remains liable for all unpaid capital contributions. Notwithstanding anything to the contrary, once all capital contributions provided for in the Partnership Agreement have been made, the limited partner interest in the Developer may be transferred with prior written notice to the County.

(4) The removal, or withdrawal in lieu of removal, of Developer's general partner for cause pursuant to the Partnership Agreement shall not require the County's consent or constitute a default under this Agreement. Notwithstanding anything to the contrary set forth in this Agreement or any of the County Documents, in the event that the general partner of Developer is removed by the limited partner of Developer, or withdraws in lieu of being removed, for cause following default under the Developer's Partnership Agreement, the County hereby approves the transfer of the general partner interest to an affiliate of the Investor Limited Partner of Developer (which affiliate is not a 501(c)(3) tax-exempt public benefit corporation and does not meet the requirements of Section 4.6(c) or 5.1(b) hereof) to act as the interim replacement general partner for a period of time not longer than one hundred twenty (120) days, with the understanding and agreement that the replacement general partner following the interim general partner shall be approved in advance and in writing by the County, which approval shall not be unreasonably withheld, provided that: (i) all documents associated with the removal of the general partner, including the Partnership Agreement, are submitted to the County for review and approval, which approval shall not be unreasonably withheld or delayed; (ii) that the Partnership Agreement and other partnership documents are consistent with and do not conflict with the County Documents and the approved Development Budget.

(d) During the term of the Loan, Developer will not refinance, re-syndicate, take out a line of credit or otherwise further encumber the property or restructure the debt constituting the Approved Financing without prior notification and approval of the County, which approval will not be unreasonably withheld or delayed. Notwithstanding anything to the contrary, Developer will make best efforts to provide written notification to the County at least one hundred twenty (120) days **prior to submittal** of applications, and in no event will provide written notification to the County no later than ninety (90) days **prior to the closing**, for refinancing, tax credits, lines of credit and any other application in which the property may be used as security.

Section 4.13 Insurance Requirements.

(a) Developer shall maintain the following insurance coverage throughout the Term of the Loan written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII". If the Developer uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Developer agrees to amend, supplement, or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

(b) Without in anyway affecting the indemnity herein provided and in addition thereto, the Developer shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability.

(i) Workers' Compensation A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Developer and all risks to such persons under this Agreement.

(ii) If Developer has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

(iii) With respect to Developers that are non-profit corporations organized under California or federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

(2) Comprehensive General Liability. General Liability Insurance covering all operations performed by or on behalf of Developer providing coverage for bodily injury and property damage with a combined single limit of not less than One Million Dollars (\$1,000,000), per occurrence. The policy coverage must include:

- (i) Premises operations and mobile equipment.
- (ii) Products and completed operations.
- (iii) Broad form property damage (including completed operations).
- (iv) Explosion, collapse, and underground hazards.
- (v) Personal injury.
- (vi) Contractual liability.
- (vii) \$2,000,000 general aggregate limit.

(3) Comprehensive Automobile Liability.

(i) Primary insurance coverage must be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol I (any auto).

(ii) The policy must have a combined single limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

(iii) If the Developer is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy must have a combined single limit of Two Million Dollars (\$2,000,000) for bodily injury and property damage per occurrence.

(iv) If the Developer owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(4) Builders' Risk/Property Insurance. Builders' Risk insurance during the course of construction, and upon completion of construction, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance must be obtained if required by applicable federal regulations.

(5) Commercial Crime. Commercial crime insurance covering all officers and employees, for loss of Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear.

(c) Developer shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Developer or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (1), (2), and (3) above, meeting all of the general requirements of subsections (e) and (f) below and naming the County as an additional insured. The Developer agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

(d) An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy must apply to bodily injury/property damage, personal injury/advertising injury and must include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage must also apply to automobile liability.

(e) The required insurance must be provided under an occurrence form, and Developer shall maintain the coverage described in subsections (a) continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three times the occurrence limits specified above.

(f) Comprehensive General Liability and Comprehensive Automobile Liability insurance policies must be endorsed to name as an additional insured the County and its officers, agents, employees and members of the County Board of Supervisors. The additional insured endorsements must not limit the scope of coverage for the County to vicarious liability but must allow coverage for the County to the full extent provided by the policy. Such additional insured coverage must be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

(g) All policies and bonds are to contain: (1) the agreement of the insurer to give the County at least thirty (30) days notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (2) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (3) a provision that no act or omission of Developer shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (4) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

(h) Construction contracts for projects over Three Million Dollars (\$3,000,000) and less than Five Million Dollars (\$5,000,000) require limits of not less than Five Million Dollars (\$5,000,000) in General Liability and Auto Liability coverage.

(i) The Developer shall require the carriers of required coverage's to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Developer and Developer's employees or agents from waiving the right of subrogation prior to a loss or claim. The Developer hereby waives all rights of subrogation against the County.

(j) All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(k) The Developer shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage prior to the Construction Closing, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Developer shall maintain such insurance from the time Developer commences performance of services hereunder until the completion of such services. Within fifteen (15) days following the Construction Closing, the Developer shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

(l) The Developer agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Developer and the County or between the County and any other insured or additional insured under the policy.

(m) Any and all deductibles or self-insured retentions in excess of Ten Thousand Dollars (\$10,000) shall be declared to and approved by Risk Management.

(n) In the event that any policy of insurance required in this Section does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to obtain such insurance it deems necessary and any premiums paid by the County will be promptly reimbursed by Developer or County disbursements to Developer will be reduced to pay for the County purchased insurance.

(o) Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced and available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Developer agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

Section 4.14 Anti-Lobbying Certification.

(a) Developer certifies, to the best of Developer's knowledge or belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, Loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, Loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

Section 4.15 Covenants Regarding Approved Financing

- (a) Developer shall promptly pay the principal and interest when due on any Approved Financing.
- (b) Developer shall promptly notify the County in writing of the existence of any default under any documents evidencing Approved Financing, including formally declared defaults and defaults that have not been formally declared by the lender but the existence of the potential default has been communicated to the Developer by the lender in writing or otherwise, and provide the County copies of any notice of default.
- (c) Developer may not materially amend, modify, supplement, cancel or terminate any of the documents evidencing Approved Financing without the prior written consent of the County.
- (d) Developer may not incur any indebtedness of any kind other than Approved Financing or encumber the Development with any liens (other than liens for Approved Financing approved by the County or as otherwise allowed under the County approved Partnership Agreement) without the prior written consent of the County.

Section 4.16 Affordability and Project Monitoring.

- (a) Throughout the Term, the Developer shall comply with all applicable record keeping and monitoring requirements and shall annually complete and submit to County a Certification of Continuing Program Compliance in the form attached to the Regulatory Agreement.
- (b) Representatives of the County or its authorized representatives shall be entitled to enter the Property upon at least forty-eight (48) hours' notice at reasonable times to monitor compliance with this Agreement, to inspect the records of the Development with respect to the Restricted Units, and to conduct an independent audit of such records. The Developer agrees to cooperate with the County in making the Property available for such inspection. If for any reason the County is unable to obtain the Developer's consent to such an inspection, the Developer understands and agrees that the County may obtain, at the Developer's expense, an administrative inspection warrant or other appropriate legal order to obtain access to and search the Property. The Developer agrees to maintain records in a business-like manner and to make such records available to the County upon forty-eight (48) hours' notice at reasonable times.
- (c) Throughout the Term, the Developer grants the County inspection rights as set forth in Section 3.14 above.
- (d) The County will enforce a per-unit affordability monitoring charge on all Units. The Developments will be a monitoring fee of \$100.00 per unit/ annually
- (e) The County will enforce a physical inspection charge for the Development. The inspection charge will be the lesser of: (1) Five Thousand Dollars (\$5,000) per inspection; or (2) the actual costs incurred by the County to secure a qualified third party, independent of the Developer, to conduct the physical inspections in accordance with the

requirements set forth in this Agreement, and any related staffing costs incurred by the County in association therewith.

(f) The Developer shall pay such charge within seven (7) days of receipt of an invoice from the County.

(g) All fees under this section are subject to increases adopted under a fee schedule approved by the Board of Supervisors, from time to time.

(h) The County reserves the right to waive or defer a portion of the monitoring charge if a development is unable to pay these costs. All waivers must be submitted in writing, with adequate supporting financial documentation, for review by the County EDA Administrator.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

Section 5.1 Representations and Warranties.

Developer hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Article 5 are deemed to be continuing during all times when any or all of the Loan remains outstanding. The Developer shall immediately advise the County in writing if there is any material change relating to any matters set forth or referenced in the items set forth below:

(a) Organization. Developer is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted. Copies of the documents evidencing the organization of the Developer delivered to the County are true and correct copies of the originals.

(b) Authority of Developer. Developer has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the County Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the County Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Developer, and all actions required under Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the County Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and the County Documents and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so

executed and delivered constitute, legal, valid and binding obligations of Developer enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement and the County Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Developer, or any provision of the organizational documents of Developer, or will conflict with or constitute a breach of or a default under any agreement to which Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The construction of the Development will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Developer is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Developer, threatened against or affecting Developer or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Developer, materially affect Developer's ability to repay the Loan or impair the security to be given to the County pursuant hereto.

(h) Title to Land. At the time of recordation of the Deed of Trust, Developer will have good and marketable title to the Development and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and liens ancillary to the Approved Financing and liens in favor of the County or approved in writing by the County.

(i) Financial Statements. The financial statements of Developer and other financial data and information furnished by Developer to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Developer from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Developer holds or reasonably expects to receive firm financial commitments for sufficient funds to complete the acquisition of the Property and the construction of the Development in accordance with the plans and specifications approved by the County.

(k) Taxes. Developer and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Property otherwise due and payable, except those which are being contested in

good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Developer or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect upon the Property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Developer and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Developer to perform under any Loan Document to which it is a party, or a material adverse effect upon the legality, validity, binding effect or enforceability against Developer of any Loan Document.

ARTICLE 6. DEFAULT AND REMEDIES

Section 6.1 Events of Default.

(a) Subject to Section 7.15, each of the following constitutes an "Event of Default" by Developer under this Agreement:

(1) Failure to Construct. Failure of Developer to obtain permits, commence, and prosecute to completion, construction of the Development within the times set forth in the Schedule of Performance, subject to extensions for reasons of force majeure under Section 7.15.

(2) Failure to Make Payment. Failure to repay the principal and any interest on the Loan within five (5) days of when such payment is due pursuant to the County Documents.

(3) Failure to Comply with the Management Plan. Failure to comply with the Management Plan approved by the County and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the County to the Developer, which notice provides reasonable detail of the default and the required cure for such default.

(4) Failure to Comply with the Marketing Plan. Failure to comply with the Marketing Plan approved by the County and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the County to the Developer, which notice provides reasonable detail of the default and the required cure for such default.

(5) Breach of Covenants. Failure by Developer to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the County Documents, and Developer fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to Developer, if Developer is incapable of curing a default within such thirty (30) day period, the County will give the Developer ninety (90) days to cure such default provided Developer has commenced to cure within such thirty (30) day period and is diligently proceeding to cure such default through the end of such period; provided, however, that if a different period or notice requirement is specified under any other section of this Article 6, the specific provisions shall control.

(6) Default Under Other Loans. A default is declared under any other financing for the Development by the lender of such financing and such default remains uncured following any applicable notice and cure period.

(7) Insolvency. A court having jurisdiction makes or enters any decree or order: (1) adjudging Developer to be bankrupt or insolvent; (2) approving as properly filed a petition seeking reorganization of Developer, or seeking any arrangement for Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (3) appointing a receiver, trustee, liquidator, or assignee of Developer in bankruptcy or insolvency or for any of their properties; (4) directing the winding up or liquidation of Developer if any such decree or order described in clauses (1) to (4), inclusive, is unstayed or undischarged for a period of ninety (90) calendar days; or (5) Developer admits in writing its inability to pay its debts as they fall due or will have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive. The occurrence of any of the Events of Default in this paragraph will act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(8) Assignment; Attachment. Developer assigns its assets for the benefit of its creditors or suffers a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon is returned or released within ninety (90) calendar days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(9) Suspension; Termination. Developer or its general partner shall have: (1) the operation of their business voluntarily or involuntarily suspended by the State of California, (2) voluntarily stopped or terminated the operation of their business; (3) the Developer shall have the operation of the partnership voluntarily or involuntarily dissolved, suspended or terminated by the State of California.

(10) Liens on Property and the Development. Any claim of lien (other than liens approved in writing by the County) is filed against the Development or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the County.

(11) Condemnation. The condemnation, seizure, or appropriation of all or the substantial part of the Property and the Development, except that condemnation by the County shall cause the Loan to accelerate but shall not be a Default.

(12) Unauthorized Transfer. Any Transfer other than as permitted pursuant to Section 4.14.

(13) Representation or Warranty Incorrect. Any Developer representation or warranty contained in this Agreement, or in any application, financial

statement, certificate, or report submitted to the County in connection with any of the County Documents, proves to have been incorrect in any material respect when made.

(14) Applicability to General Partner. The occurrence of any of the events set forth in subsection (5), subsection (6), or subsection (7) in relation to Developer's managing general partner.

Section 6.2 Remedies.

(a) Upon the occurrence of an Event of Default and following the expiration of all applicable notice and cure periods the County: (1) is relieved of any obligation to make or continue the Loan; and (2) has the right to proceed with any and all remedies set forth in this Agreement and the County Documents, including but not limited to the following:

(i) Acceleration of Note. The County may cause all indebtedness of Developer to the County under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. Developer waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust. Developer is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(ii) Assignment of Documents. Subject to the rights of Senior Lenders, the County may exercise all rights under the Assignment of Documents executed in connection with the County Documents. Subject to the rights of Senior Lenders, the Developer shall promptly deliver to the County copies of all plans and specifications for the Development, all permits and approvals obtained in connection with the Development, and all applications for permits and approvals not yet obtained but needed in connection with the Development

(iii) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Developer to perform its obligations and covenants under the County Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the County Documents.

(iv) Termination. The County has the right to terminate this Agreement and, at its sole option, to seek any remedies at law or equity available hereunder.

(v) Right to Cure at Developer's Expense. The County has the right (but not the obligation) to cure any monetary default by Developer under a Loan other than the Loan. Developer shall reimburse the County for any funds advanced by the County to cure a monetary default by Developer upon demand therefor, together with interest thereon at the lesser of the maximum rate permitted by law and ten percent (10%) per annum (the "Default Rate") from the date of expenditure until the date of reimbursement.

Section 6.3 Right of Contest.

Developer may contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute an Event of Default hereunder. Any such contest is to be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement or the County Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy will be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Developer and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 6.5 Limited Partner Cure Rights

In addition to the provisions of Section 7.20 below, the County agrees to provide the Investor Limited Party and any limited partner of Developer who has requested written notice from the County ("Permitted Limited Partner") a duplicate copy of all notices of default that the County may give to or serve in writing upon Developer pursuant to the terms of the County Documents, at the address provided to the County, provided, the County shall have no liability to the Permitted Limited Partner for its failure to do so. The Permitted Limited Partner shall have the right, but not the obligation, to cure any Default of Developer set forth in such notice, during any applicable cure period described in the County Documents, and the County will accept tender of such cure as if delivered by Developer. If the Permitted Limited Partner is unable to cure a default because Developer's general partner is in bankruptcy and/or because the cure requires removal of the general partner of Developer and the Permitted Limited Partner is proceeding diligently to remove the general partner of Developer in order to effect a cure of the Default, the cure period will be extended for such reasonable time as is necessary for the Permitted Limited Partner to effect a cure of the Default, but in no event longer than 60 days after the date of receipt by the Permitted Limited Partner of written notice of the default.

ARTICLE 7. GENERAL PROVISIONS

Section 7.1 Relationship of Parties.

Nothing contained in this Agreement is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Developer or its agents, employees or contractors, and Developer will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Developer has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the construction and

operation of the Development, Developer is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Developer is solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the Property, the construction or operation of the Development, and Developer shall include similar requirements in any contracts entered into for the construction or operation of the Development.

Section 7.3 Discretion Retained By County.

The County's execution of this Agreement in no way limits the discretion of the County in the permit and approval process in connection with the construction of the Development.

Section 7.4 Indemnification.

The Developer agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers ("Indemnities") from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnities, except as provided in the following sentence. The Developer's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "gross negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. This indemnification provision is not intended to and does not limit, negate, modify, nullify, or change the nonrecourse provisions of this Agreement or any other agreement, document, instrument, certificate or covenant executed by Developer. The provisions of this Section will survive the expiration of the Term and the reconveyance of the Deed of Trust.

Section 7.5 Non-Liability of County Officials, Employees and Agents.

No board member, official, employee or agent of the County is personally liable to Developer in the event of any default or breach by the County or for any amount that may become due to Developer or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third Party Beneficiaries.

Other than the Investor Limited Partner, there are no third party beneficiaries to this Agreement.

Section 7.7 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.7(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or financial benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. Developer shall exercise due diligence to ensure that the prohibition in this Section 7.7(a) is followed.

(b) The conflict of interest provisions of Section 7.7(a) above apply to any person who is an employee, agent, consultant, officer of the County, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Developer, or immediate family member of any of the preceding, may make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Developer. Interpretation of this section is governed by the definitions and provisions used in the Political Reform Act, California Government Code Section 87100 et seq., its implementing regulations manual and codes, and California Government Code Section 1090.

Section 7.8 Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: Community Development and Housing Department
 San Bernardino County
 560 East Hospitality Lane, Suite 200
 San Bernardino, CA 92415-0043
 Attn: Director

With a copy to:
 Goldfarb & Lipman, LLP
 1300 Clay Street, 11th Floor
 Oakland, CA 94612
 Attn: Rafael Yaquian

Developer:
 E Street Veterans Apartments, LP

c/o U.S.VETS Housing Corporation
800 West Sixth Street, Suite 1505
Los Angeles, CA 90017
Attention: Carla Ford, Esq.

with copy to:

Bergman & Allderdice
1200 Wilshire Blvd, Suite 610
Los Angeles, CA 90017
Attn: Beth Bergman

And

c/o R4 Capital LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Marc Schnitzer
Telephone Number: 646.576.7659
Telecopier Number: 212.546.9085
E-Mail Address: mschnitzer@R4cap.com

And

Holland & Knight LLP
787 Seventh Avenue, 31st Floor
New York, New York 10119
Attention: Alan S. Cohen.
Telephone Number: 212.513.3404
Telecopier Number: 212.385.9010
E-Mail Address: alan.cohen@hklaw.com

such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.9 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by the Parties. The County Chief Executive Officer or Community Development and Housing Department (CDH) Director is authorized to execute on behalf of the County amendments to the County Documents or amended and restated County Documents as long as any material change in the amount or terms of this Agreement is approved by the Board of Supervisors.

Section 7.10 County Approval.

The County has authorized the County Chief Executive Officer or Community Development and Housing Department (CDH) Director to execute the ancillary County Documents and deliver such approvals or consents as are required by this Agreement, and to execute estoppel certificates concerning the status of the Loan and the existence of Developer defaults under the County Documents, including subordination agreements substantially consistent with the terms of Section 2.5 above.

Section 7.11 Applicable Law and Venue.

This Agreement is governed by the laws of the State of California. Any action brought claiming a breach of this Agreement or interpreting this Agreement shall be brought and venued in San Bernardino County, California.

Section 7.12 Parties Bound.

Except as otherwise limited herein, this Agreement binds and inures to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and to bind Developer and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof is to inure to the benefit of the County and its successors and assigns.

Section 7.13 Attorneys' Fees.

If any legal action is instituted to enforce any party's rights in this Agreement, each party shall bear its own costs and attorneys' fees and costs of suit, regardless of who is the prevailing party. This Section shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under the indemnification and insurance requirements.

Section 7.14 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.15 Force Majeure.

In addition to specific provisions of this Agreement, performance by either Party will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, pandemics, epidemics, quarantine restrictions, freight embargoes, lack of transportation, court order, governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement), or any other similar causes (other than the Developer's inability to obtain financing for the Improvements) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such

extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event will the County be required to agree to cumulative delays in excess of one hundred eighty (180) days be allowed under this Section.

Section 7.16 Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Developer may not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Section 7.17 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18 Entire Understanding of the Parties

The County Documents constitute the entire agreement of the Parties with respect to the Loan.

Section 7.19 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 7.20 Limited Partner Rights.

The County agrees to the following provisions for the benefit of the Developer's Investor Limited Partner:

(a) The County will give the Investor Limited Partner a copy of any written notice that the County gives to Developer under this Agreement and the other County Documents;

(b) The County will give the Investor Limited Partner ten (10) days after the Investor Limited Partner's receipt of such notice to cure a non-payment of any sum due under the County Documents;

(c) The County will give the Investor Limited Partner thirty (30) days after the Investor Limited Partner's receipt of such notice to cure any other default under this Agreement and other County Documents;

(d) If a default is incapable of being cured within thirty days, the County will give the Investor Limited Partner sixty (60) days to cure such default provided the Investor Limited Partner has commenced to cure such default and is diligently proceeding to cure such default through the end of such period;

(e) If the Investor Limited Partner makes any such payment or otherwise cures such default, the County will accept such action as curing such Default as if such payment or cure were made by Developer;

(f) The County will permit insurance and condemnation proceeds to be used to rebuild the Development provided that: (1) sufficient funds are provided from other sources to effectively rebuild the Affordable Development to a lawful multifamily housing complex, and (2) subject to the rights of any senior lenders, the County shall hold all such proceeds and disburse them based on the progress of construction, subject to such additional reasonable conditions as the County may impose.

Section 7.21 Action by the County. Except as may be otherwise specifically provided in this Agreement or any other of the County Documents, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the County is required or permitted under this Agreement or any other of the County Documents, such action shall be given, made, taken, refused, denied or withheld by the County Executive Officer, at the County Executive Officer's reasonable discretion (unless some other standard is expressly stated), or by any person who shall have been designated in writing to the Developer by the County Executive Officer, without further approval by the Board of Supervisors. Any such action shall be in writing.

WHEREAS, this Agreement has been entered into by the undersigned as of the Effective Date.

COUNTY:

SAN BERNARDINO COUNTY, a political subdivision of the State of California

By: _____
Dawn Rowe, Chair
Board of Supervisors

Date of Execution: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD

LYNNA MONELL
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO LEGAL FORM:

LAURA FEINGOLD
County Counsel

By: _____
Suzanne Bryant
Deputy County Counsel

DEVELOPER:

E Street Veterans Apartments, LP,
a California limited partnership

By: U.S.VETS – E Street LLC,
a California limited liability company,
its managing general partner

By: U.S.VETS Housing Corporation,
a California nonprofit public benefit corporation,
its managing member

By: _____
Lori Allgood, Chief Operating Officer

By: Kingdom Development, Inc.,
a California nonprofit public benefit corporation,
its member

By: _____
William Leach, President

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 11, IN BLOCK 34, 5 ACRE SURVEY OF RANCHO SAN BERNARDINO, CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, FILED IN BOOK 7, PAGE 2 OF MAPS, RECORDS OF SAID COUNTY, AS SHOWN AS LOT MERGER NO. LM 2023-004, IN THE CERTIFICATE OF COMPLIANCE RECORDED AUGUST 24, 2023, AS INSTRUMENT NO. 2023-0208268 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE EAST BOUNDARY LINE OF "E" STREET OF SAID CITY, 238.16 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 11, SAID POINT BEING ON THE SOUTH LINE OF DOCUMENT RECORDED DECEMBER 15, 2022, AS INSTRUMENT NO. 2022-0400312 OF OFFICIAL RECORDS OF SAID COUNTY;

THENCE ALONG SAID LINE, NORTH 89° 17' 52" EAST, A DISTANCE OF 299.01 FEET, MORE OR LESS, TO A POINT MIDWAY BETWEEN THE SAID EAST BOUNDARY LINE OF SAID "E" STREET AND THE WEST BOUNDARY LINE OF "D" STREET OF SAID CITY;

THENCE SOUTH 00° 20' 18" EAST, A DISTANCE OF 116.98 FEET TO THE SOUTH LINE OF SAID LOT 11;

THENCE ALONG SAID LINE, SOUTH 89° 36' 20" WEST, A DISTANCE OF 299.02 FEET, MORE OR LESS, TO THE WEST BOUNDARY LINE OF SAID "E" STREET;

THENCE ALONG SAID LINE, NORTH 00° 19' 53" WEST, A DISTANCE OF 115.38 FEET TO THE POINT OF BEGINNING.

THE PRECEDING FOUR COURSES PER RECORD OF SURVEY 22-01062, RECORDED IN BOOK 176, PAGE 60 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY.

APN: 0145-211-55-0-000

EXHIBIT B

APPROVED DEVELOPMENT BUDGET

EXHIBIT C

SCHEDULE OF PERFORMANCE

This Schedule of Performance summarizes the schedule for various activities under the Loan Agreement to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only and shall not be deemed to modify in any way the provisions of the Agreement to which such items relate. Section references herein to the Agreement are intended merely as an aid in relating this Schedule of Performance to other provisions of the Agreement and shall not be deemed to have any substantive effect. Times for performance are subject to Force Majeure, as further provided in Section 7.15 of the Agreement.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the County or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, the Developer shall consult with County staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Item	Obligation/Duty	Date of Completion
1.	<u>Execution of County Loan Agreement.</u> The Loan Agreement shall be executed by the Developer and submitted to County	On or before October 31, 2025
2.	<u>Submission of Organizational Documents.</u> Developer has delivered to the County a copy of Developer's organizational documents and a corporate authorizing resolution authorizing Developer's execution of this Agreement and the transactions contemplated by this Agreement	On or before October 31, 2025
3.	<u>Submission of Financing Plan.</u> Developer shall submit Financing Plan to the County.	Deemed Complete
4.	<u>Submission of Conceptual Site Plan and Elevations.</u> Developer shall submit Conceptual Site Plan.	Deemed Complete
5.	<u>Submission of Proof of Insurance.</u> Developer must furnish to County proof of insurance required under §4.13	Prior to the close of escrow.
6.	<u>Execution of Promissory Note, Deed of Trust and Regulatory Agreement and submittal into Escrow.</u> Developer has caused to be executed and delivered to the County the Loan Documents and any other	On or before October 31, 2025

	instruments, and policies required under the Loan Documents	
7.	<u>Completion of Conditions to Construction Component Disbursement.</u> Developer shall satisfy all conditions required for the loan disbursement pursuant to §2.6 (b) of the Loan Agreement.	Prior to the first disbursement of the Construction Component.
8.	<u>Evidence of Availability of Funds.</u> Developer to provide evidence that it secured all sources of funds to construct the property.	Prior to the first disbursement of the Construction Component.
9.	<u>CASP.</u> The Developer has submitted a certification from the architect or the Certified Access Specialist certifying that Project has been designed in compliance with <u>Section 2.6(b)(10)</u> of this Agreement or has provided the County with other evidence that the Project has been designed to comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, <u>et seq.</u>) and the Uniform Federal Accessibility Standards (UFAS)	Prior to the first disbursement of the Construction Component.
10.	<u>Permits and Approvals.</u> Developer shall provide Permit-Ready letter from City that Developer indicating all building permits and approvals necessary for the construction of the Development has been secured. [§3.2]	Prior to the first disbursement of the Construction Component.
11.	<u>Environmental Review.</u> Developer has provided the County evidence of compliance with all applicable CEQA and NEPA mitigation measures	Deemed Complete
12.	<u>Close of Escrow.</u>	Within 90 days from Board of Supervisor approval
13.	<u>Submission of Construction Contract.</u> Developer shall submit proposed Construction Contract for the Development. [§3.3]	Not later than seven (7) days prior to the proposed Commencement of Construction.
14.	<u>Submission of Construction Bonds.</u> Developer shall obtain and submit proof of labor and material bond and performance and payment bond. [§3.5]	Not later than seven (7) days prior to the proposed Commencement of Construction.
15.	<u>Commence Construction.</u> Developer shall commence construction of the Improvements in accordance with approved Final Construction Plans. [§3.6]	December 15, 2025, but no later than six (6) months from the Effective Date of this Agreement.

16.	<u>Marketing Plan</u> Developer shall submit to County for its approval the marketing of the Development to income-eligible households. [§3.17]	No later than six (6) months prior to projected Completion of Construction.
17.	<u>Tenant Services Plan and Budget</u> Developer shall submit to the County the proposed services plan and budget with written guidelines or procedures for County Approval. [§3.18]	No later than six (6) months prior to projected Completion of Construction.
18.	<u>Completion of Construction.</u> Developer shall diligently complete construction of the Development. [§3.7]	Within twenty-four (24) months of construction commencement, but no later than December 31, 2027, unless extended for up to ninety (90) days with the approval of the Chief Executive Officer.
19.	<u>Completion of Conditions to Completion Component Disbursement.</u> Developer shall satisfy all conditions required for the loan disbursement pursuant to §2.6 (c) of the Loan Agreement.	Concurrently with or prior to conversion to permanent financing.
20.	<u>Final Form of Lease.</u> The County has received from Developer a form of Tenant lease.[§2.6(c)]	At least forty-five (45) days prior to conversion to permanent financing
21.	<u>Management Agreement.</u> The County has received from Developer a copy of the management agreement and contact information for the property manager of the Project and the name and phone number of the on-site property manager [§2.6(c)]	At least forty-five (45) days prior to conversion to permanent financing
22.	<u>CASP Requirement.</u> Developer has submitted a certification from the architect or a County approved Certified Access Specialist certifying that the Project has been constructed in compliance with Section 3.8(f) of this Agreement or has provided the County with other evidence that the Project, as built, complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, et seq.) and the Uniform Federal Accessibility Standards (UFAS). [§2.6(c)]	At least forty-five (45) days prior to conversion to permanent financing
23.	<u>Final Cost Certification.</u> The Developer has provided the Final Cost Certification for the	No later than one hundred eighty (180) days following Completion of Construction

	Project from Developer showing all uses and sources [§2.6(c.7)]	
24.	<u>Prevailing Wages</u> . The Developer has submitted copies of all certified payrolls to the County, and any identified payment issues have been resolved, or Developer is working diligently to resolve any such issues [§2.6(c.15)]	At final distribution of funds.

EXHIBIT D

FORM OF PROMISSORY NOTE

EXHIBIT E

FORM OF DEED OF TRUST

EXHIBIT F

FORM OF REGULATORY AGREEMENT

EXHIBIT G

LATCF REQUIREMENTS

ASSITANCE AND TRIBAL CONSITENCY FUND (LATCF) FEDERAL GUIDELINES USE OF ARPA LATCF AND REQUIREMENTS

This Contract may be funded in whole or in part with funds provided by the American Rescue Plan Act (ARPA) – Local Assistance and Tribal Consistency Fund (LATCF), *Federal Award Identification Number (FAIN): LATCF00009 and Assistance Listing Number (formerly known as a CFDA number): 21.032*, and therefore Contractor agrees to comply with any and all LATCF requirements in addition to any and all applicable County, State, and Federal laws, regulations, policies, and procedures pertaining to the funding of this Contract. The use of the LATCF must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to the LATCF requirements shall be returned or repaid to the County. Any funds paid to Contractor i) in excess of the amount to which Contractor is finally determined to be authorized to retain; ii) that are determined to have been misused; or iii) that are determined to be subject to a repayment obligation pursuant to Section 605 of the Social Security Act as added by Section 9901 of the ARPA of 2021, and have not been repaid, shall constitute a debt to the federal government. Contractor agrees to comply with the requirements of Section 605 of the Act, regulations adopted by the United States Department of the Treasury (U.S. Treasury) pursuant to the Act, and guidance issued by the U.S. Treasury regarding the foregoing. Contractor shall provide for such compliance in any agreements with subcontractor(s).

Contractor agrees to comply with the following:

- A. The Contractor shall not use the LATCF to directly or indirectly pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation. Amounts that are used in violation of the lobbying restriction set forth in this guidance may be subject to recoupment.
- B. The Contractor shall expend and account for the LATCF funds in accordance with the financial management, procurement, and conflicts of interest standards, laws, policies, and procedures applicable to their expenditure of and accounting for their own funds. The Contractor should also review and comply with the Build America, Buy America Act (BABA) that establishes domestic content procurement preference requirements for federal financial assistance for infrastructure unless a waiver is issued by the U.S. Treasury to this LATCF program. Expenditures for iron, steel, manufactured products, and construction materials used in an infrastructure project funded using a LATCF award generally must be produced in the United States. These requirements do not apply to non-infrastructure projects or to infrastructure projects undertaken in response to the COVID-19 public health emergency.
- C. The Contractor is required to possess or obtain a Unique Entity Identifier (UEI) Number from the System for Award Management (SAM) on SAM.gov, register and/or maintain an active

registration with SAM on SAM.gov, and comply with the SAM requirements in 2 C.F.R. Part 25.

- D. The Contractor acknowledges that The LATCF is considered federal financial assistance and is generally subject to laws and regulations applicable to federal financial assistance for the following provisions of 2. C.F.R. Part 200 (the Uniform Guidance):
- 2 C.F.R. Subpart A (Acronyms);
 - 2 C.F.R. 200.100-110 (certain General Provisions);
 - 2 C.F.R. 200.203 (public notice of Federal financial assistance programs);
 - 2 C.F.R. 200.303 (internal controls);
 - and Single Audit Act and its implementing regulations at 2 C.F.R. Part 200 Subpart F.
- E. The Contractor is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. These requirements include ensuring that the Contractor does not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity).
- F. The Contractor is required to provide data for post-award compliance reviews upon receipt of the request from U.S. Treasury, including information such as a narrative describing its Title VI of the Civil Rights Act of 1964 Public Law 88-352, 42 U.S.C. 2999d-1 et seq., compliance status.
- G. The Contractor is responsible for complying with all other applicable laws including all applicable environmental laws and all laws applicable to federal financial assistance (unless stated otherwise in this Contract) in the course of using the LATCF.
- H. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 8, 1997) re: Increasing Seat Belt Use, San Bernardino County (County) encourages the Contractor to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles.
- I. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 1, 2009), re: Reducing Text Messaging While Driving, the County encourages the Contractor to encourage its employees and sub-contractors to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.
- J. The Contractor will be subject to audit or review by the U.S. Treasury and Government Accountability Office as the County is subject to the Single Audit Act and its implementing regulations at 2 C.F.R Part 200 Subpart F.
- K. The Contractor shall grant the right of timely and unrestricted access to any books, documents, papers, or other records of the Contractor that are pertinent to the use of LATCF, and to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the Contractor's personnel for the purpose of interviews and discussion related to such documents.
- L. The Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to its LATCF for a period of five years from the date of submission of the final annual report to be submitted by the County. This requirement includes documentation necessary to show compliance with the BABA, to the extent applicable to the recipient's award.
- M. The Contractor is encouraged to establish robust protections against data breaches and misuse and to comply with applicable privacy laws because the Contractor may receive sensitive information in the course of completing projects using the LATCF.

EXHIBIT H

STATEMENT OF RESIDUAL RECEIPTS

Residual Receipts Report
for the Year Ending _____

Date Prepared: _____, 20__

Please complete the following information and execute the certification at the bottom of this form.

Annual Operating Income

Please report Annual Operating Income for the year ending _____ on the following lines:

Rent Payments received (including Section 8 tenant assistance payments, if any) (1) \$ _____

Interest Income (do not include interest income from replacement and operating reserves nor interest income on tenant security deposits) (2) \$ _____

Additional Income Related to Project Operations (for example, vending machine income, tenant forfeited deposits, laundry income not paid to the residents' association, business interruption insurance casualty insurance, not used to rebuild) (3) \$ _____

Total Annual Operating Income (Add lines 1, 2, and 3) (4) \$ _____

Operating Expenses

Please report Operating Expenses incurred in relation to the operations of the Project for the year ending _____, on the following lines:

Operating and Maintenance Expenses (5) \$ _____

Utilities (6) \$ _____

Fees and licenses (7) \$ _____

Property management Expenses and On-Site Staff Payroll (8) \$ _____

Administrative Expenses Incurred by Project

Property/Possessory Interest Taxes	(9)	\$ _____
Insurance	(10)	\$ _____
Other Expenses Related to Operations of the Project	(11)	\$ _____

Total Annual Operating Expenses (Add Lines 5, 6, 7, 8, 9, 10, and 11)	(12)	\$ _____
Net Operating Income (Subtract Line 12 from Line 4)	(13)	\$ _____

Do not include expense unrelated to the Project's operations, such as depreciation, amortization, accrued principal and interest expense on deferred payment debt, or capital expenditures paid from withdrawals from the Replacement Reserves or other reserve accounts.

Additional Cash Flow Payments

Obligated Debt Service Payments (as approved by the County and other parties that may have such approval rights)	(14)	\$ _____
Scheduled Deposits Capital and Operating Reserves (as approved by the County)	(15)	\$ _____
Additional Payment Obligations (i.e. additional Resident Services, Deferred Developer Fee)	(16)	\$ _____
Total Additional Cash Flow Payments (Add lines 14, 15 and 16)	(17)	\$ _____
Residual Receipts for Year Ending _____ (Subtract Line 17 from Line 13)	(18)	\$ _____
Percentage of Residual Receipts to be Paid to the County	(19)	\$ _____
Amount Payable to the County (Multiply Line 18 by Line 19)	(20)	\$ _____

The following certification should be executed by the Executive Director or Chief Financial Officer of the Borrower, or the Managing General Partner of the Borrower.

I certify that the information provided in this form is true, accurate, and correct in all respects.

Date

By: _____
(Print Name)

Its: _____
(Title)

EXHIBIT I



ATTACHMENT C **Levine Act –** **Campaign Contribution Disclosure** (formerly referred to as Senate Bill 1439)

The following is a list of items that are not covered by the Levine Act. A Campaign Contribution Disclosure Form will not be required for the following:

- Contracts that are competitively bid and awarded as required by law or County policy
- Contracts with labor unions regarding employee salaries and benefits
- Personal employment contracts
- Contracts under \$50,000
- Contracts where no party receives financial compensation
- Contracts between two or more public agencies
- The review or renewal of development agreements unless there is a material modification or amendment to the agreement
- The review or renewal of competitively bid contracts unless there is a material modification or amendment to the agreement that is worth more than 10% of the value of the contract or \$50,000, whichever is less
- Any modification or amendment to a matter listed above, except for competitively bid contracts.

DEFINITIONS

Actively supporting or opposing the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidiary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: E Street Veterans Apartments, LP
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?
Yes ☐ If yes, skip Question Nos. 3-4 and go to Question No. 5 No ☒
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: NA
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s):
NA
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
NA	

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
NA		

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and/or Agent(s):
NA		

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
NA	

9. Was a campaign contribution, of more than \$500, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No ☒ If **no**, please skip Question No. 10.

Yes ☐ If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$500 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.