

HOME INVESTMENT PARTNERSHIPS ACT LOAN AGREEMENT

Between

COUNTY OF SAN BERNARDINO

and

Bloomington III Housing Partners, L.P.

(Bloomington Housing Phase III)

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HOME INVESTMENT PARTNERSHIPS ACT LOAN AGREEMENT
(Bloomington Housing Phase III)

This HOME Investment Partnerships Act Loan Agreement (the "Agreement") is dated as of February __, 2020 (the "Effective Date"), and is between the County of San Bernardino, a political subdivision of the State of California (the "County") and Bloomington III Housing Partners, L.P., a California limited partnership ("Borrower").

RECITALS

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

B. The County has received Home Investment Partnerships Act funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"). The HOME Funds must be used by the County in accordance with 24 C.F.R. Part 92 (the "HOME Regulations").

C. The County owns fee title interest in approximately 4.91 acres of real property located near the corner of Valley Boulevard and Locust, in the unincorporated area of the County, as more particularly described in Exhibit A-1 (the "Property"). The Property is located at 17906 Valley Boulevard.

D. The Property is part of a multi-phase development commonly referred to as the Bloomington Mixed Use Development. Phase I of the Bloomington Mixed Use Development includes one hundred six (106) units of affordable multi-family rental housing. Phase II of the Bloomington Mixed Use Development includes eighty-four (84) units of affordable multi-family housing.

E. As part of the third phase of the Bloomington Mixed Use Development project, the Borrower intends to construct approximately ninety-eight (98) low-income, multi-family rental units (the "Improvements"). The Improvements and the Phase III Affordable Development Parcel are collectively referred to as the "Development."

F. To facilitate the financing, construction and operation of the Development, the parties intend to subdivide the Property to create the following parcels: (1) the Phase III Affordable Development Parcel; and (2) the Community Center Parcel. The Borrower will lease the Phase III Affordable Development Parcel from the County pursuant to a long-term ground lease (the "Housing Lease").

G. Borrower desires to borrow from the County and the County desires to lend Borrower Three Million Five Hundred Thousand Dollars (\$3,500,000) of HOME Investment Partnerships Act funds ("HOME Funds") to fund eligible activities for the Development as allowed under 24 C.F.R. 92.206 through 24 C.F.R. 92.209 (the "Loan"). The Loan will be evidenced by the Note and secured by the Deed of Trust, as defined below.

H. The Loan is being made to finance construction costs associated with the Development in order to help achieve financial feasibility for the Development. The Development will increase the supply of affordable rental housing in San Bernardino County. Due to the assistance provided to Borrower pursuant to this Agreement, the County has classified seventeen (17) units as HOME-assisted units (each such unit a "HOME-Assisted Unit"), which Units are "fixed" Units as defined in 24 C.F.R. 92.252(j). The HOME-Assisted Units are required to be two (2) of the one-bedroom Units, ten (10) of the two-bedroom Units, and five (5) of the three-bedroom Units, and are to be intermingled throughout the Development and of comparable quality to all other Units and must meet the Uniform Federal Accessibility Standards and Section 3.8(g) below. Ninety-Seven (97) Units are to be made available to, and occupied by, LIHTC-compliant households pursuant to the terms of the Regulatory Agreement.

I. Pursuant to the California Environmental Quality Act ("CEQA") and its implementing guidelines, the County (in its capacity as "lead agency"), prepared, reviewed and following a duly noticed public hearing approved a Notice of Exemption (the "Notice of Exemption") on January 2, 2019, for the Valley Boulevard Specific Plan, of which the transactions contemplated by this Agreement are a part.

J. In accordance with National Environmental Policy Act ("NEPA"), prior to approval of this Agreement, County staff prepared and circulated for public review an environmental assessment and notice of intent to adopt a finding of no significant impact for this Agreement and the development contemplated by this Agreement (the "FONSI"). The County thereafter approved the FONSI, on December 18, 2018, after concluding that any mitigation measures set forth in the mitigated FONSI will mitigate any significant environmental impacts associated with the development contemplated by this Agreement to a level of insignificance.

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 Borrower. 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 HOME Investment Partnerships Act Loan Agreement, as such may be amended from time to time.

(c) "Annual Operating Expenses" with respect to a particular calendar year means the following costs reasonably and actually incurred for operation and maintenance of the Development to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles:

- (1) Property taxes and assessments imposed on the Development;
- (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 Development) on loans associated with development of the Development and approved by the County in the Approved Financing Plan;
- (3) Property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry, and pursuant to a management contract approved by the County;
- (4) Premiums for property damage and liability insurance;
- (5) Any annual license or certificate of occupancy fees required for operation of the Development;
- (6) Annual regulatory compliance monitoring fee of \$7,500 payable to the County;
- (7) Security services;
- (8) Advertising and marketing costs;
- (9) Cash deposited into reserves for capital replacements of the Phase III Affordable Development in an amount to be approved by the County as part of the Approved Affordable Housing Financing Plan, as the same may increase during the Term with the approval of the County;
- (10) Cash deposited into an operating reserve in an amount to be approved by the County as part of the Approved Financing Plan, as the same may increase during the Term with the approval of the County, and annual operating budgets, but with the operating reserve capped at six (6) months of gross rent from the Development (as such rent may vary from time to time);
- (11) Asset management fee and, for the first fifteen (15) years of the Term, a partnership management fee, in the amount approved by the County as part of the Approved Financing Plan;
- (12) Utility services not paid for directly by tenants, including without limitation, water, sewer, and trash collection;

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

(14) Social services fees and expenses;

(15) Annual audit fees, inspection fees, or monitoring fees required in relation to any Approved Financing;

(16) Extraordinary operating costs specifically approved by the County in its reasonable discretion; and

(17) Payments of deductibles in connection with casualty insurance claims not 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.

(20) Annual Operating Expenses shall exclude the following: depreciation, amortization, depletion or other non-cash expenses or, any amount expended from a reserve account.

(d) "Annual Payment" has the meaning set forth in Section 2.7(a).

(e) "Approved Financing" means all of the following loans, grants and equity obtained by Borrower and approved by the County for the purpose of financing the Development, which include the following, estimated as of the Effective Date:

(1) A construction loan from U.S. Bank National Association, a national banking association ("U.S. Bank") in the approximate amount of Twenty-Two Million Six Hundred Ninety Thousand Three Hundred Twenty-Four Dollars (\$22,690,324) (the "Construction Loan");

(2) A permanent loan from U.S. Bank in the approximate amount of One Million Four Hundred Sixty-Six Thousand Dollars (\$1,466,000) (the "Permanent Loan");

(3) Low Income Housing Tax Credits, Tax Credit Investor limited partner capital contribution in the approximate amount of Twenty-Five Million Four Hundred Four Thousand Six Hundred Eighty-Three Dollars (\$25,404,683), (the "Tax Credit Investor Equity");

(4) A loan in the approximate amount of One Million Five Hundred Seventy-Four Thousand Eight Hundred Ten Dollars (\$1,574,810) of MHSA Funds from CalHFA under the Special Needs Housing Program; and

(5) A general partner capital contribution in the approximate amount of Eight Million Seven Hundred Thousand Dollars (\$8,700,000) from the Grantee.

(f) "Approved Financing Plan" means the Financing Plan approved by the County as of the date of this Agreement, attached to this Agreement as Exhibit B, incorporated herein by this reference, as the same may be amended pursuant to Section 3.16. The Approved Financing Plan shall be updated at the Close of Escrow without need for amendment of this Agreement and shall be included in the Construction Loan estoppel letter issued by the County at the Close of Escrow.

(g) "Assignment of Documents" means the agreement, evidencing the Borrower's assignment of all rights in and to certain plans, specifications and other work product as security for the Loan Documents.

(h) "Bid Package" means the package of documents Borrower's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Major Trades for the Development. The Bid Package is to include the following: (1) an invitation to bid; (2) copy of the proposed construction contract; (3) a form of bid guarantee that is reasonably acceptable to the County; and (4) all Construction Plans.

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

(j) "Borrower" has the meaning set forth in the first paragraph of this Agreement.

(k) "CalHFA" means the California Housing Finance Agency.

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

(m) "Certificate of Completion" means the means the final Certificate of Completion issued by the County, or comparable County sign-off on the completion of construction of the Development, in the form attached to the DDA as Exhibit M, thereof.

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

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

(p) "Completion Date" means the date that all of the following have occurred: (1) a temporary or final Certificate of Completion, or equivalent document is issued by the County to certify completion of the construction of the Development; (2) the final disbursement of HOME funds for the Development has been made; (3) the County has verified the Development complies with the property standards set forth in 24 CFR 92.251 and all other requirements in Subpart F of the HOME Regulations; and (4) all project completion information has been entered by the County into the Integrated Disbursement and Information System (IDIS). County shall process completion information promptly after receiving complete information from the Borrower.

(q) "Completion of Construction" has the meaning set forth in Section 3.7.

(r) "Construction Closing" means the date that Borrower acquires leasehold title to the Phase III Affordable Development Parcel and all deeds of trust associated with Approved Financing necessary for the construction of the Development as shown on the Approved Financing Plan are recorded against the Borrower's leasehold interest in the Phase III Affordable Development Parcel.

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

(t) "Construction Contract" has the meaning set forth in Section 3.4.

(u) "Construction Loan" has the meaning set forth in Section 1.1(e)(1).

(v) "Construction Plans" means all construction documentation upon which Borrower and the General Contractor rely in constructing the Improvement on the Phase III Affordable Development Parcel (including the units in the Improvement, landscaping, parking, and common areas) as approved by the County, 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. Construction Plans shall also mean the Plans and Specifications approved by the County under the DDA.

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

(x) "County Executive Officer" means the County's Chief Executive Officer.

(y) "County Prorata Percentage" means the County's prorata percentage of the Lenders' Share of Residual Receipts, resulting from dividing the Loan funds disbursed to Borrower 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 Borrower.

(z) "Deed of Trust" means the Leasehold Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing among Borrower, as Trustor, a trustee approved by the County, and the County, as beneficiary, that will encumber the Borrower's leasehold in the Phase III Affordable Development Parcel to secure repayment of the Loan and performance of the covenants of the Loan Documents. A copy of the form of Leasehold Deed of Trust is attached as Exhibit E.

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

(bb) "Developer Fee" has the meaning set forth in Section 3.17.

(cc) "Development" has the meaning set forth in Paragraph E of the Recitals.

(dd) "Escrow" means the escrow account established by the Borrower for the closing of Development financing with Fidelity National Title Insurance Company in its

Newport California office, located at 4400 MacArthur Blvd, Suite 200, Newport Beach, California, 92660, or another escrow company satisfactory to the County.

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

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

(gg) Intentionally omitted.

(hh) "Gross Revenue" means for each calendar year, all revenue, income, receipts, and other consideration actually received from operation and leasing of the Development. Gross Revenue includes, but is not limited to:

(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 Phase III Affordable Development;

(4) Subject to the rights of Senior Lenders, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Phase III Affordable Development (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 Phase III Affordable Development for a temporary period; and

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

(ii) "Hazardous Materials" has the meaning set forth in Section 4.8.

(jj) "Hazardous Materials Claims" has the meaning set forth in Section 4.8.

(kk) "Hazardous Materials Law" has the meaning set forth in Section 4.8.

(ll) "HOME" means the HOME Investment Partnerships Act Program pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12705 et seq.), as amended.

(mm) "HOME-Assisted Units" has the meaning set forth in Recital H.

(nn) "HOME Funds" has the meaning set forth in Paragraph B of the Recitals.

(oo) "HOME Term" means the period beginning on the date of this Agreement and ending on the twentieth (20th) anniversary of the Completion Date.

- (pp) "HOME Regulations" has the meaning set forth in Recital B.
- (qq) "Housing Lease" has the meaning set forth in Recital F.
- (rr) "HUD" has the meaning set forth in Paragraph B of the Recitals.
- (ss) "Improvements" has the meaning set forth in Paragraph E of the Recitals.
- (tt) "Investor Limited Partner" means the limited partner entity admitted to the Borrower and benefiting from federal low-income housing tax credits established pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.
- (uu) "Lenders' Share of Residual Receipts" means fifty percent (50%) of the Residual Receipts, inclusive of any Residual Receipts payment due under the Public Loans.
- (vv) "Loan" has the meaning set forth in Paragraph G of the Recitals.
- (ww) "Loan Documents" means this Agreement, the Note, the Regulatory Agreement, and the Deed of Trust.
- (xx) "Major Trades" means the following construction trades for which the general contractor must bid out work: mechanical, roofing, concrete, electrical, plumbing, and framing trades.
- (yy) "Marketing Plan" has the meaning set forth in Section 3.18(a).
- (zz) "NEPA" has the meaning set forth in Paragraph J of the Recitals.
- (aaa) "Net Proceeds of Permanent Financing" means the portion of the Approved Financing for the construction of the Development that is not required to pay the costs of acquiring a leasehold interest in and construction of the Development (including but not limited to the funding of reserves and repayment of construction financing). Net Proceeds of Permanent Financing, if any, shall be determined pursuant to the procedure for determining "Net Excess Proceeds" set forth in Section 3.5(c) of the DDA.
- (bbb) "Note" means the Promissory Note that evidences Borrower's obligation to repay the Loan. A copy of the form of Note is attached as Exhibit D.
- (ccc) "Notice of Completion" means the Notice of Completion executed by Borrower in the form specified in California Civil Code Section 3093.
- (ddd) "Partnership Agreement" means the Agreement of Limited Partnership executed by the partners of Borrower, 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 4.14(c) hereof.
- (eee) "Permanent Closing" means the date that all deeds of trust (or assignments of deeds of trust) associated with the Permanent Financing (as shown on the Approved Financing Plan), have been recorded against the Borrower's leasehold interest in the Phase III Affordable

Development Parcel, or if previously recorded, are converted to permanent loan deeds of trust, which shall also be referenced as the "Conversion Date".

(fff) "Permanent Financing" means the sources of approved permanent financing for the Phase III Affordable Development as listed in the Financing Plan for the Phase III Affordable Development approved by the County, as such may be amended.

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

(hhh) "Permitted Transfer" has the meaning set forth in Section 4.14(c).

(iii) "Phase III Affordable Development Parcel" means the condominium portion of the Property (including, without limitation specified airspace above the Community Center Parcel), on which the Phase III Affordable Development Improvements will be constructed, and as more particularly depicted on the Conceptual Site Plan attached hereto as Exhibit A-2, incorporated herein by this reference.

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

(kkk) "Public Loans" means the County Loan and the CalHFA loan.

(lll) "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants between the County and Borrower related to the Loan, to be recorded against the Borrower's leasehold interest in the Phase III Affordable Development Parcel. A copy of the form of Regulatory Agreement is attached as Exhibit F.

(mmm)"Residual Receipts" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses as further set forth in Section 2.7(a).

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

(ooo) "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.

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

(qqq) "Services Budget" has the meaning set forth in Section 3.19.

(rrr) "Services Plan" has the meaning set forth in Section 3.19.

(sss) "Statement of Residual Receipts" means an itemized statement of Residual Receipts, in the form attached here to as Exhibit I, incorporated herein by this reference. The first Statement of Residual Receipts will cover the period that begins on the Completion Date and ends on December 31st of that same year. Subsequent statements of Residual Receipts will cover the twelve-month period that ends on December 31 of each year. The form of Residual Receipts Report provided pursuant to Section 3.5 of the DDA shall be deemed to satisfy the requirement hereof.

(ttt) "Subdivision Map" means a lot line adjustment, tentative map amendment, or subdivision map (as may be required by the County) which will create the proposed development parcels.

(uuu) "Tax Credit Investor Equity" has the meaning set forth in Section 1.1(e)(3).

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

(www) "Tenant" means the tenant household that occupies a unit in the Development.

(xxx) "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 the Completion Date.

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

(zzz) "Unit" means one (1) of the approximately ninety-seven (97) affordable housing units to be constructed at the Development, other than one (1) manager's unit.

Section 1.2 Exhibits.

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

- Exhibit A-1: Legal Description of the Property
- Exhibit A-2: Legal Description of Phase III Affordable Development Parcel
- Exhibit B: Approved Financing Plan
- Exhibit C: Schedule of Performance
- Exhibit D: Form of Promissory Note
- Exhibit E: Form of Leasehold Deed of Trust
- Exhibit F: Form of Regulatory Agreement
- Exhibit G: Certification of Continuing Program Compliance
- Exhibit H: Section 3 Compliance
- Exhibit I: Statement of Residual Receipts

ARTICLE 2. LOAN PROVISIONS

Section 2.1 Loan.

Subject to the satisfaction of the conditions set forth in this Article, the County shall lend to Borrower the Loan for the purposes set forth in Section 2.3 of this Agreement. Borrower's obligation to repay the Loan is evidenced by the Note.

Section 2.2 Interest.

(a) Simple interest will accrue on the outstanding principal balance of the Loan at a per annum rate of simple interest equal to zero percent (0%) commencing on the date of each disbursement.

Section 2.3 Use of Loan Funds.

(a) Allowable Uses. The Borrower may use the Loan to fund the construction and permanent financing of the Development consistent with the Approved Financing Plan and consistent with eligible activities requirements under 24 C.F.R. 92.206 through 24 C.F.R. 92.209. Borrower shall use the Loan only to fund costs associated with the affordable residential portions of the Development.

(b) Prior Incurred Costs. No portion of the Loan shall be used to fund costs incurred more than twenty-four (24) months prior to the Effective Date or for any costs not allowed under 24 C.F.R. 92.206.

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

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

Section 2.4 Security.

(a) Assignment of Documents. The Borrower's obligations under this Agreement shall be secured by the Assignment of Documents, in a form to be provided by the County, to be executed by the Borrower pursuant to this Section. The Assignment of Documents shall become effective upon an uncured Event of Default as defined in Section 6.1 below. The County shall not have any obligation under any contracts or agreements assigned pursuant to the Assignment of Documents until it expressly agrees in writing to be bound by such contracts or agreements. Upon an Event of Default that has not been cured pursuant to this Agreement, the County may use any of the documents, assigned to the County under an Assignment of Documents, for any purpose for which the Borrower could have used them for construction of the Development. The Assignment of Collateral Documents delivered by the Borrower to the County pursuant to Section 3.4 of the DDA, shall secure the Loan and shall be deemed to satisfy the requirements under this Section 2.4.

(b) During Construction. The Deed of Trust will secure the Loan. At the Construction Closing, the Deed of Trust shall be recorded against the Borrower's leasehold interest in the Phase III Affordable Development Parcel. Borrower shall secure its obligation to repay the Loan, as evidenced by the Note, by executing the Deed of Trust, and causing or permitting it to be recorded as a lien against the leasehold interest in the Phase III Affordable Development Parcel in lien priority approved by the County in such relationship to the other Approved Financing liens as the County approves. Borrower shall also cause or permit the

Regulatory Agreement to be recorded against the leasehold interest in the Phase III Affordable Development Parcel, in a lien position approved by the County.

Section 2.5 Subordination.

(a) Any agreement by the County to subordinate the Deed of Trust and/or Regulatory Agreements 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, or any combination thereof;

(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 Borrower, Related or any Related Affiliate, other than as a depositor or a lender;

(3) Borrower demonstrates to the County's satisfaction that subordination of the Deed of Trust and/or Regulatory Agreement 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 Loan Documents. To satisfy this requirement, Borrower 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 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 and/or Regulatory Agreement 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 Borrower, 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 Borrower; 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 and/or the Regulatory Agreement before a foreclosure, nor require the consent of the Senior Lender prior to the County exercising any remedies available to the County under the Loan Documents; and

(c) Upon a determination by the County Executive Officer that the conditions in this Section have been satisfied, the County Executive Officer 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) In no event shall the County subordinate its fee interest in any portion of the Property or any parcel created under the Final Map to any mortgage, deed of trust, or regulatory agreement, with the exception of that certain Lease Rider Agreement required by TCAC to be recorded against the County's fee interest in the Property.

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 Borrower to pay eligible costs. The County shall disburse the Loan into Escrow in two components: (i) a "Construction Component" in the amount Three Million One Hundred Fifty Thousand Dollars (\$3,150,000) and (ii) a "Completion Component" in the amount of Three Hundred Fifty Thousand Dollars (\$350,000). The division of the Loan between the Construction Component and the Completion Component may be readjusted by the County Executive Officer on behalf of the County without the need for formal amendment of this Agreement. The County will disburse the Construction Component at the Construction Closing subject to the conditions precedent set forth in subsection (b) below (but in no event before the Construction Closing) and the Completion Component at Permanent Closing subject to the conditions precedent set forth in subsection (c).

(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 Loan 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 Borrower or its Affiliates relating to the Development;

(2) This Agreement has been executed by the Borrower and the County and delivered to the County;

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

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

(5) The County has received and approved any necessary updates to the Approved Financing Plan;

(6) The County has received and approved the general contractor's construction contract that the Borrower has entered or proposed to enter for construction of the Phase III Affordable Development as required under the terms of Section 3.4 of this Agreement, 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;

(7) County has approved or received copies of the Plans and Specifications for the Phase III Development;

(8) The County has received copies of (1) labor and material payment and performance bonds; or (2) other reasonable forms of security for the completion of the construction of the Phase III Affordable Development, from either the Borrower or the Borrower's general contractor; or (3) delivery of the executed Completion Guaranty Agreement, in the form attached hereto as Exhibit L of the DDA;

(9) Borrower has obtained all permits and approvals necessary for the construction of the Improvement, (or is entitled to receive such building permits subject to the payment of fees therefor) necessary to perform the construction work pursuant to the terms of this Agreement;

(10) The Borrower has submitted a certification from the architect or the Certified Access Specialist certifying that the HOME-Assisted Units have been designed in compliance with Section 3.8(f) of this Agreement or has provided the County with other evidence that the Development 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) Borrower has executed a Partnership Agreement approved by the County, with the Investor Limited Partner, in which the Investor Limited Partner is obligated to provide Borrower the Tax Credit Investor Equity;

(12) Borrower has closed, or is concurrently closing, on the Construction Loan and is eligible to receive the proceeds of all construction loans and has received, or is concurrently receiving, the amount of Tax Credit Investor Equity stated as the first installment in the Partnership Agreement (estimated to be approximately Two Million Five Hundred Forty Thousand Four Hundred Sixty-Eight Dollars (\$2,540,468));

(13) The Subdivision Map has been processed creating the Phase III Affordable Development Parcel.

(14) The County has received reasonable evidence that the local match requirements set forth in 24 C.F.R. Section 92.218 et seq., have been satisfied pursuant to Section 4.1 of this Agreement;

(15) The County has received and approved the general contractor's construction contract that the Borrower has entered or proposed to enter for construction of the Phase III Affordable Development, as required under the terms of Section 3.4 of this

Agreement, 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;

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

(17) The Deed of Trust and the Regulatory Agreement have been recorded against the Borrower's leasehold interest in the Phase III Affordable Development Parcel in the Office of the Recorder of the County of San Bernardino in a lien position approved by the County, in accordance with the terms of this Agreement, and recorded copies have been arranged to be delivered to the County;

(18) Borrower is in compliance with the Schedule of Performance;

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

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

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

(22) 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 Borrower 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 County of San Bernardino;

(23) The County has received a written draw request from the Borrower, including certification that the condition set forth in Section 2.6(b)(i) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Affordable Housing Financing Plan for the Phase III Affordable Development, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred;

(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 Loan 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 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;

(3) The Borrower has satisfied all conditions for the receipt of the completion installment of the Tax Credit Investor Equity, consistent with Borrower's Partnership Agreement;

(4) The County has received from the Borrower copies of the final Certificate of Completion for the Development and the Notice of Completion has been recorded against leasehold title to the Property, or other equivalent document;

(5) The County has received from Borrower 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 Tenants of the HOME-Assisted Units; (ii) the unit size, rent amount and utility allowance for all HOME-Assisted Units; and (iii) the accessible units in the Development pursuant to Section 3.8(f);

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

(8) The County has received from Borrower and approved a form of Tenant lease, in accordance with Section 3.18 of the DDA;

(9) The County has received from Borrower and approved the Marketing Plan, in accordance with Section 8.14 of the DDA;

(10) The County has received from the Borrower evidence of marketing for any vacant units in the Development such as copies of flyers, list of media ads, list of agencies and organizations receiving information on availability of units, as applicable;

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

(12) The County has received from Borrower all relevant contract activity information (including items included in Exhibit H of this Agreement, incorporated herein by this reference) and MBE/WBE requirements;

(13) Borrower has submitted a certification from the architect or a County approved Certified Access Specialist certifying that the Development has been constructed in compliance with Section 3.8 of this Agreement or has provided the County with other evidence that the Development, 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);

(14) The County has received from Borrower 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) In compliance with Davis-Bacon Act (40 U.S.C. 3141-3148), the Borrower has submitted copies of all certified payrolls to the County, and any identified payment issues have been resolved, or Borrower is working diligently to resolve any such issues;

(16) The Borrower has submitted copies of all certified payrolls and provided the County all information required by Labor Code Section 17773.3, and any identified payment issues have been resolved, or Borrower is working diligently to resolve any such issues; and

(17) The County has received a written draw request from Borrower, 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 Financing Plan, (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. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (1) certification by the Borrower'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 (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

(d) The Borrower hereby agrees and acknowledges that the County will have 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 Improvement, the Senior Lender agrees to be bound to the terms hereof and the Senior Lender has cured any Event of Default of the Borrower.

(f) Notwithstanding any other provisions of this Agreement, the County shall have no further obligation to disburse any portion of the Loan to Borrower under this Agreement following: (i) termination of this Agreement; (ii) notification by the County to the Borrower of an Event of Default (excluding any Event of Default of the County) under terms of this Agreement until such time as the Event of Default has been cured.

Section 2.7 Repayment Schedule.

(a) Annual Payments. Commencing on May 1 following Completion of Construction, and on May 1 of each year thereafter during the Term, Borrower 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 County shall apply all Annual Payments first, to accrued interest, and second, to principal. On or prior to the date that Borrower pays its Annual Payment, Borrower 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 Borrower's financial records for the relevant period, which statement must confirm that Borrower'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 Borrower's calculation of Lenders' Share of Residual Receipts.

The information provided by the Borrower under Section 3.5 of the DDA shall be deemed to satisfy the requirements of this Section.

(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 Borrower receives its final Tax Credit Investor Equity contribution, Borrower shall pay to the County one-hundred percent (100%) of the Net Excess Proceeds, as a special repayment of the Loan. Notwithstanding anything to the contrary, the County Executive Officer is authorized to approve a reduced special repayment from Net Excess Proceeds of the Loan pursuant to this subsection in the event the County Executive Officer determines in the County Executive Officer's sole and absolute discretion that such funds are required to pay project costs reasonably incurred by the Borrower and approved by the County pursuant to the Approved Financing Plan (including as needed to capitalize the Supplemental Replacement Reserve or the Capitalized Operating Reserve). Any amounts required to be paid hereunder, shall be apportioned among subordinate lenders.

(c) Determination of Net Excess Proceeds. The amount of the Net Excess Proceeds shall be determined by the Borrower and submitted to the County for approval on the date the Borrower submits the final cost audit for the Development to TCAC. The Borrower shall also submit to the County any additional documentation sufficient to verify the amount of the Net Excess Proceeds. The County shall reasonably approve or disapprove the Borrower's determination of the amount of the Net Excess Proceeds in writing within sixty (60) days of the receipt of the Borrower's cost audit and supplemental documentation. If the County disapproves the Borrower's determination of the amount of Next Excess Proceeds, the County shall specify in writing the reasons for the disapproval. If the Borrower's determination is disapproved by the County, the Borrower shall re-submit documentation to the County until the County approval is obtained. The County's share of the Net Excess Proceeds shall be due the County from the

Borrower within ten (10) days after the Borrower receives the final equity contribution from its Tax Credit Investor.

(d) Special Repayment For Un-leased Units. As required under 24 C.F.R. 92.252, if Borrower fails to lease any one of the HOME-Assisted Units within eighteen (18) months of the Completion of Construction of the Development, the Borrower shall repay to the County a proportionate share of the indebtedness of Borrower to the County under this Agreement and the Note attributable to each of the HOME-Assisted Units that has remained un-leased for the entire eighteen (18) month period, which amount shall be immediately due and payable.

(e) Payment in Full. Borrower 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.

(f) Prepayment. Borrower 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.

(a) Except as provided below, upon recordation of the Deed of Trust against the Phase III Affordable Development Parcel, neither Borrower, nor any partner of Borrower, 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 Borrower 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 Borrower 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 shall:

(1) Limit or impairs the enforcement of all the rights and remedies of the County against all such security for the Note;

(2) Be deemed in any way to impair the right of County to assert the unpaid principal amount of the Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto;

(3) Be deemed in any way to limit the rights of the County to obtain specific performance by the Borrower of its covenants under the County Documents, other than the covenants to pay the County principal and interest due under the Promissory Note

(b) 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 Borrower's obligations under the Deed of Trust. Except as hereafter set forth; nothing contained herein is intended to relieve Borrower of its obligation to indemnify the County under this Agreement, or liability for:

(1) Fraud or willful misrepresentation of the Borrower;

(2) The failure to pay taxes, assessments or other charges which may create liens on the Phase III Affordable Development Parcel that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges);

(3) The fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; and/or

(4) The misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain; or by reason of damage, loss, or destruction to any portion of the Phase III Affordable Development Parcel.

ARTICLE 3. CONSTRUCTION OF THE IMPROVEMENTS

Section 3.1 Schedule of Performance.

Borrower 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 Borrower and the County Executive Officer 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.

Borrower 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. The applications for permits and approvals shall be consistent with and incorporate the approved Plans and Specifications.

Section 3.3 Bid Package.

No later than thirty (30) days prior to Borrower's proposed date for advertising the Bid Package, Borrower shall submit to the County a copy of Borrower's general contractor's proposed Bid Package. The County Executive Officer, or his/her designee, 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 Borrower. Borrower will then have fifteen (15) days to review and approve Borrower'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. Borrower may not publish a proposed Bid Package until it has been approved by the County.

Section 3.4 Construction Contract.

(a) No later than the date set forth in the Schedule of Performance, the Borrower shall submit to the County for its limited approval the proposed construction contract for the Development. All construction and professional services are to be performed by persons

or entities licensed or otherwise authorized in the State of California. The County's review and approval shall be limited exclusively to a determination whether: (i) the guaranteed maximum construction cost or stipulated sum set forth in the construction contract is consistent with the Approved Financing Plan; (ii) the Major Trades were properly bid and that the contract is with Portrait Construction, Inc., as contractor; or a contractor approved by the County; (iii) the construction contract contains provisions consistent with Sections 3.8(c), 3.9, and 3.10 of this Agreement; and (iv) the construction contracts require a retention of ten percent (10%) of hard costs until completion of the Development; or as approved by the County at its sole discretion, provided that that Borrower may release retention for the following trades prior to completion of the Development: grading, foundations, framing, sewer and water.

(b) The County's approval of the construction contract for the Development shall in no way be deemed to constitute approval of or concurrence with any other term or condition of the construction contract, except as such term or condition may be required by this Agreement.

(c) Upon receipt by the County of the proposed construction contract, the County shall promptly review same and approve it within ten (10) days if the contract satisfies the limited criteria set forth above. If the construction contract is not approved by the County, the County shall set forth in writing and notify the Borrower of the County's reasons for withholding such approval. The Borrower shall thereafter submit a revised construction contract for County approval, which approval shall be granted or denied in ten (10) days in accordance with the criteria and procedures set forth above. Any construction contract executed by the Borrower for the Development shall be in a form approved by the County.

(d) Borrower and their contractors shall use best efforts to coordinate with the local County Workforce Development Department (WDD) and any other entity identified by the County (including but not limited to the Housing Authority), to maximize the practicable opportunity to participate in the construction of the Development. Borrower 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 Borrower and available to the County as requested.

Section 3.5 Construction Bonds.

(a) As a condition precedent to the first draw request under the Construction Component of the Loan, the Borrower 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 3.5 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 Borrower in writing of the reasons for disapproval and the required revisions to the previously submitted Construction Bonds. The Borrower 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.

(c) Notwithstanding the foregoing, the County shall consider other reasonable forms of security for the completion of the construction of the Improvements, including (1) from either the Borrower or the Borrower's general contractor, in lieu of such Construction Bonds described in this section provided that: (A) the Investor and all lenders set forth on the Approved Financing Plan have agreed to such other security, and (B) the County has the same enforcement rights under such security as the Investor and all lenders set forth in the Approved Financing Plan; or (2) delivery of the executed Completion Guaranty Agreement, in the form attached hereto as Exhibit L to the DDA.

Section 3.6 Commencement of Construction.

Borrower 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 Borrower to Borrower's general contractor.

Section 3.7 Completion of Construction.

(a) The Developers shall diligently prosecute to completion the construction of the Phase III Development no later than the date set forth in the Schedule of Performance, but in no event later than May 31, 2023, unless the County and the Borrower agree to extend such date as a result extensions pursuant to Section 7.15.

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

(1) Borrower 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, subject to Section 7.15 hereof.

(2) Borrower 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.

(3) Borrower shall provide the County a copy of the Certificate of Completion, or other evidence of completion of the Development within ten (10) days of receipt.

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

(a) Changes. Borrower shall construct the Development substantially in accordance with the conceptual site plans and plans and specifications and the terms and conditions of the land use permits and approvals and building permits, including any variances granted. Borrower 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. Consent to any additions, changes, or deletions to the work do not relieve or release Borrower from any other obligations under this Agreement, or relieve or release Borrower or its surety from any surety bond.

(b) Compliance with Laws. To the extent applicable, Borrower 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 set out in 24 C.F.R. 5.701 et seq. and 24 C.F.R. 92.251 or 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 Borrower shall be responsible to the agency for the procurement and maintenance thereof, as may be required of Borrower and all entities engaged in work on the Development.

(c) Prevailing Wages. To the extent required by law, in the construction of the Development, Borrower 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, Borrower 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, Borrower shall post the applicable prevailing rates of per diem wages at the project site. To the extent Prevailing Wage Requirements are applicable, Borrower 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, Borrower 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) Borrower 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) Borrower shall cause its respective contractors to post job site notices, as prescribed by applicable DIR regulations; and (iii) Borrower 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) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County and its board members, 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 Borrower, its contractors and subcontractors) 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) The prime contractor and all subcontractors shall be required to pay their laborers and mechanics employed under this Agreement, a wage not less than minimum wage classification, as specified in the applicable Federal law when the contract amount for the prime contract exceeds \$2,000. The prime contractor is responsible for ensuring subcontractor compliance with Davis-Bacon Act and related requirements. Federal Labor Standards Provisions (HUD 4010) apply to the Development. A weekly certified payroll submitted through LCP Tracker (as defined in Exhibit H) is required during the term of construction of the Development. Payment of disbursement components may be delayed when certified payrolls are not properly submitted.

(a) For purposes of this Section 3.8, the "initial construction" of the Development shall mean the work required in order to construct such improvements and obtain the Certificate of Completion for the Development.

(f) Accessibility Requirements. The Borrower 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 (5) Units, representing five percent (5%) of the Units in the Development, shall be constructed to be readily accessible and usable by households with a mobility impaired member and a minimum of two (2) Units, representing two percent (2%) of the Units in the Development) shall be constructed and to be readily accessible and usable by households with a hearing or visually impaired member. 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.

(c) Nothing in this Section prohibits the Borrower from requiring Units in the Development to be available to and occupied by income eligible households in accordance with the Regulatory Agreements, or from requiring the IEHP-Assisted Units in the Development to be available to and occupied by income eligible IEHP Housing Initiative Participants in accordance with the Regulatory Agreements.

Section 3.10 Minority and Women-Owned Contractors.

Borrower 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. Borrower 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 Borrower and available to the County as requested.

Section 3.11 Progress Reports.

(a) From the date of execution of this Agreement and until such time as Borrower has received a Certificate of Completion for the Development, Borrower shall provide the County with quarterly progress reports regarding the status of the construction of the Development.

(b) The Borrower shall provide any information reasonably requested by the County in connection with the Development.

Section 3.12 Construction Responsibilities.

(a) Borrower 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) Borrower is solely responsible for all aspects of Borrower'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 Borrower is properly discharging its obligations to the County, and may not be relied upon by Borrower 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 Certificates of Completion.

(a) Promptly after completion of the Development, and upon written request from the Borrower, in accordance with those provisions of this Agreement relating solely to the obligations of the Borrower to construct the Development; and the County's determination that the Borrower various obligations with regards to completion of the Development under this Agreement have been met; the County will provide the Borrower with one or more Certificates of Completion for the Development. If upon the written request from the Borrower, the County determines, at its sole discretion, that the requesting Borrower is not entitled to a Certificate of Completion, the County shall within twenty (20) days of such request, provide such Borrower with a written response stating with specificity the obligations required to be completed as a condition for issuing the Certificate of Completion. If the County fails to issue or fails to provide a written response stating with specificity the reasons the County will not issue a Certificate of Completion to a requesting Borrower within twenty (20) days of a request hereunder, then the requesting Borrower shall be deemed to be entitled to receive such Certificate of Completion.

(b) Such Certificates of Completion shall be conclusive evidence that the covenants in this Agreement with respect to the obligations of Borrower to construct their portions of the Development described in such certificates and the dates for the beginning and completion thereof have been met; provided, however, such certifications shall not be conclusive evidence regarding Borrower satisfaction of the prevailing wage requirements of Section 3.8(c) above. Such Certificates of Completion shall be in such form as will enable them to be recorded

among the official records of the County. Such certifications and determinations shall not constitute evidence of compliance with or satisfaction of any obligation of the Borrower to any holder of a deed of trust securing money loaned to finance any portion of the Development or any part thereof and shall not be deemed a notice of completion under the California Civil Code.

Section 3.14 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Phase III Affordable Development Parcel 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 Borrower shall, within twenty (20) 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 Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section or obtain a surety bond, 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 Borrower's expense. Alternately, the County may require Borrower 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 Borrower.

(c) Borrower 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 Phase III Affordable Development Parcel. Borrower 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.

Section 3.15 Inspections.

(a) The Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection of the Development by the County and by public authorities during reasonable business hours upon forty-eight (48) hours' written notice for the purposes of determining compliance with this Agreement, provided, however, that nothing in this Agreement shall entitle the County to enter an occupied unit in the Development without notice to the tenant thereof, which the Borrower shall deliver on behalf of the County, and permission from such tenant to the extent such permission is required by law. Such inspections do not relieve the Borrower, or its contractors, from any applicable requirement to obtain other County inspections in connection with the construction of the Improvements.

(b) After the completion of an inspection the County shall deliver a copy of the inspection report to the Borrower. If the County determines as a result of such inspection that there are any life-threatening health and safety related deficiencies, Borrower has the obligation to correct such deficiencies immediately, in accordance with 24 C.F.R. 92.251. 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 Borrower shall correct such deficiencies within fifteen (15) days from the delivery of the inspection report or if a period longer than fifteen (15) days is

reasonably necessary to correct the deficiency, then Borrower must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible. In addition, the Borrower 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 Borrower for non-hazardous deficiencies in conformance with 24 C.F.R. 92.504(d).

Section 3.16 Approved Financing Plan.

As of the date of this Agreement, the County has approved the Approved Financing Plan set forth in Exhibit B. Borrower shall submit any proposed or required amendments to the Approved Financing Plan, along with evidence that the changes to the Approved Financing Plan are reasonable and necessary, to the County for approval within fifteen (15) days of the date Borrower receives information indicating that actual costs of the Development materially vary or will vary from the costs shown on the Approved Financing Plan, which approval shall not be unreasonably withheld or delayed. Written consent of the County will be required to amend the Approved Financing Plan, which consent will be granted or denied in accordance with Section 5.6(c) of the DDA. The County will make best efforts to respond in writing within seven (7) days after receipt of a proposed amendment to the Approved Financing Plan.

Section 3.17 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 One Hundred Thousand Dollars (\$2,100,000) and as approved by the County. 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 Borrower or any affiliate of the Borrower 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 Borrower 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 from the amount listed in Section 3.16(a), the Borrower shall notify the County of any change to the amount of deferred Developer Fee.

Section 3.18 Marketing Plan.

(a) No later than six (6) months prior to the projected date of the Completion of Construction of the Improvements, Borrower 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 and 24 C.F.R. 92.351(a) (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) business days after

submission. If the Marketing Plan is not approved, Borrower shall submit a revised Marketing Plan within fifteen (15) business days. Borrower shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the County.

(c) If after five (5) months after the Completion of Construction any HOME-Assisted Unit remains unoccupied, the Borrower shall submit a detail report of the ongoing marketing efforts, and if deemed appropriate by the County, any necessary amendments or updates to the Marketing Plan aimed at ensuring any unoccupied HOME-Assisted Unit is promptly leased. If any of the HOME-Assisted Units remain unoccupied eleven (11) months after the Completion of Construction, the Borrower shall submit a detailed report of the ongoing marketing efforts and submit to the County an update to the Marketing Plan. Failure to lease all of the HOME-Assisted Units to an eligible tenant within eighteen (18) months of Completion of Construction shall trigger the special repayment pursuant to Section 2.7(d).

Section 3.19 Tenant Services Plan and Budget.

(a) Borrower will be providing on-site services to all tenants in the Development which are required to be provided by the Borrower under its award of Tax Credits by TCAC (the "Tenant Services"). No later than six (6) months prior to the projected date of the Completion of Construction of the Improvements, Borrower shall submit to the County for approval a proposed services plan which shall include written guidelines or procedures for providing the Tenant Services (the "Services Plan"), and a proposed budget for the provision of Tenant Services (the "Services Budget").

(b) The Services Plan shall include the types of Tenant Services provided, staffing levels, and overall coordination of the Tenant Services.

(c) The Services Budget shall show required expenditures from Annual Operating Expenses in an approximate amount of approximately Forty-Five Thousand Dollars (\$45,000) (\$3,750 per Month) subject to an annual increase that is equal to three percent (3%) to fund Tenant 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 Borrower shall submit a revised Services Plan and/or Services Budget within thirty (30) days following the Borrower's receipt of the County's written disapproval. If the County does not approve the revised Services Plan and/or Services Budget because the Borrower fails to make specific revisions requested by the County, the Borrower shall be in default hereunder. If the County does not approve or disapprove updates to Resident Services Plan or Resident Services Budget within the timeframe specified herein, then the Resident Services Plan or Resident Services Budget, as applicable, from the prior year shall remain in effect. Notwithstanding anything to the contrary, the County may not require the Borrower to reduce the Tenant Services or the Services Budget below those required to be provided by the Borrower under its award of Tax Credits by TCAC.

ARTICLE 4. LOAN REQUIREMENTS

Section 4.1 HOME Match and Per Unit Subsidy Requirement.

(a) The Borrower shall ensure that the Loan is matched with a minimum of Seven Hundred Thousand Dollars (\$700,000) in other, non-federal sources to be used to fund the construction of the Development.

(b) The total amount of the Loan may not exceed the maximum per unit subsidy for HOME-Assisted Units amount established under 24 C.F.R. §92.250. The County has determined that the applicable maximum per unit subsidy applicable to the Development at the time of this Agreement is: (1) One Hundred Sixty Eight Thousand Six Hundred Dollars (\$168,600) for a one-bedroom unit; (2) Two Hundred Five Thousand Five Hundred Two Dollars (\$205,502) for a two-bedroom unit; and (3) Two Hundred Sixty-Five Thousand Two Hundred Twenty-Nine Dollars (\$265,229) for a three-bedroom unit.

Section 4.2 Financial Accountings and Post-Completion Audits.

(a) No later than ninety (90) days following Completion of Construction of the Development and issuance of the Certificate of Completion for the Development, Borrower shall provide to the County a financial accounting of all sources and uses of funds for the Development. No later than one hundred fifty (150) days following Completion of Construction of the Development, or such other period as may be allowed by TCAC for a similar requirement, Borrower shall submit to the County a copy of the cost certification report prepared by the Borrower's accountant and submitted to TCAC showing the sources and uses of all funds utilized for the Phase III Affordable Development Improvements

(b) 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 Borrower for the Development that: (1) Borrower 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 4.3 Annual Operating Budget.

At the beginning of each year of the Term, Borrower shall provide to the County an annual budget for the operation of the Development. The information provided under Section 8.9(c) of the DDA shall be deemed to satisfy the requirements hereunder.

Section 4.4 Information.

Borrower 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 Borrower's use of the Loan funds.

Section 4.5 Records.

(a) Borrower shall keep and maintain at the Development, or at the corporate offices of the Borrower'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 Borrower's calculation of Residual Receipts, and disbursements of Residual Receipts. Books, records and accounts relating to Borrower'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 shall at reasonable times 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 and forty-eight hours' prior written notice to Borrower. Borrower 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 Borrower 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 Borrower 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 Borrower 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. Borrower shall cause records to be accurate and current and in such a form as to allow the County to comply with the record keeping requirements contained in 24 C.F.R. 92.508. 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 established by HUD pursuant to 24 C.F.R. 5.703;
- (3) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;
- (4) Financial records as required by 24 C.F.R. 92.505, and OMB Circular A-110 (24 C.F.R. Part 84);
- (5) Records demonstrating compliance with the Tenant Selection Plan requirements pursuant to 24 C.F.R. 92.253(d), and HOME affordability and income requirements;
- (6) Records demonstrating compliance with MBE/WBE requirements;
- (7) Records demonstrating compliance with 24 C.F.R. Part 135 which implements Section 3 of the Housing Development Act of 1968 (including those in Exhibit H of this Agreement);
- (8) 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;

(9) Records demonstrating compliance with applicable labor requirements including certified payrolls from Borrower's general contractor evidencing that applicable prevailing wages have been paid.

(10) Records demonstrating compliance with 24 C.F.R. 8.20.

(b) The County shall notify Borrower of any records it deems insufficient. Borrower has thirty (30) 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 thirty (30) days is reasonably necessary to correct the deficiency, then Borrower must begin to correct the deficiency within thirty (30) days and correct the deficiency as soon as reasonably possible.

Section 4.6 County Audits.

(a) Each year, Borrower shall provide the County with a copy of Borrower's annual audited financial statements, which is to include information on all of Borrower's activities, in addition the Borrower's general partners shall submit audited financial statements and the Borrower and the Borrower's general partners shall submit all other financial information pertaining to the Development as is reasonably requested by the County determined by the County as necessary for compliance with the requirements of 24 C.F.R. 504(d). Borrower shall also follow audit requirements of the Single Audit Act and OMB Circulars A-122 and 110.

(b) The receipt by the County of any statement pursuant to subsection (a) above or any payment by the Borrower or acceptance by the County of any loan repayment for any period shall not bind the County as to the correctness of such statement or such payment. In addition, within three (3) years after the receipt of any such statement the County or any designated agent or employee of the County at any time, upon three (3) business days' prior written notice, is entitled to audit the Residual Receipts of the Development, and all of Borrower'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 Borrower 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 Borrower. 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 4.6 determines that Residual Receipts have been understated for any fiscal year by more than five percent (5%) and the County is entitled to any additional County Loan repayment as a result of said understatement, then the Borrower shall pay, in addition to the amounts set forth above, all of the reasonable costs and expenses incurred by the County in connection with the audit and review of Borrower'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 (3) 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 Borrower contests the draft conclusions of any audit, Borrower 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 Borrower's position in good faith. At any party's request, Borrower and the County (and/or their respective auditors or accountants) shall meet to resolve factual or interpretive disputes, following which the County shall notify Borrower of final audit conclusions. Borrower shall be deemed to have acceded to such conclusions unless Borrower 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 Borrower unless the final audit determines that any understatement of Residual Receipts by Borrower in any fiscal year was less than five percent (5%). Notwithstanding anything to the contrary herein, the Borrower shall bear its own costs to review or contest findings made hereunder.

Section 4.7 HOME Requirements.

(a) Borrower shall comply with all applicable laws and regulations governing the use of the HOME Loan funds as set forth in 24 C.F.R. Part 92, including the requirements of the Regulatory Agreement. In the event of any conflict between this Agreement and applicable laws and regulations governing the use of the Loan funds, the applicable laws and regulations govern. During the HOME Term, these requirements are federal requirements, implemented by the County; thereafter, these requirements are deemed local County requirements.

(b) The laws and regulations governing the use of the Loan funds include (but are not limited to) the following:

(1) Eligible Project Costs. Restrictions on funding only eligible project costs as defined under 24 C.F.R. 92.206 (subject to Section 2.3 above).

(2) Environmental and Historic Preservation. 24 C.F.R. Part 50 and 24 C.F.R. Part 58, which prescribe procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(3) Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

(4) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24.

(5) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Construction Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order

12432; Executive Order 12138 as amended by Executive Order 12608, Executive Order 13672 concerning Gender Identity.

(6) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35 and 24 C.F.R. 92.355.

(7) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; 24 C.F.R. 570.606; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq. If and to the extent that development of the Development results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Borrower shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. If and to the extent applicable, Borrower shall prepare and submit a relocation plan to the County for approval. Borrower is solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. Borrower shall indemnify, defend (with counsel reasonably chosen by the County), and hold harmless the County against all claims that arise out of relocation obligations to residential tenants, homeowners, or businesses permanently or temporarily displaced by the Development.

(8) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Uniform Federal Accessibility Standards (24 C.F.R. 8.20, et seq. 8.51) and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto.

(9) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time.

(10) Uniform Administrative Requirements. The provisions of 24 C.F.R. 92.505 regarding cost and auditing requirements.

(11) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3") and implementing regulations 24 C.F.R. 135 et seq., requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the project.

Borrower agrees to include the following language in all subcontracts executed under this Agreement:

(i) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(ii) The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(iii) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(iv) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

(v) The contractor will certify that any vacant employment positions, including training positions, that are filled (A) after the contractor is selected but before the contract is executed; and (B) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

(vi) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(vii) As applicable, with respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii)

preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(12) Labor Standards. The labor requirements set forth in 24 C.F.R. 92.354; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

(13) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(14) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87.

(15) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt and Borrower shall immediately notify the County. Borrower shall not alter or move the discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place, which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist.

(16) Flood Disaster Protection. The requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) (the "Flood Act"). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of the Flood Act, for use in an area identified by HUD as having special flood hazards which is not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of the Flood Act. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program is subject to the mandatory purchase of flood insurance requirements of Section 102(a) of the Flood Act. If the Property is located in an area identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., the property owner and its successors or assigns must obtain and maintain, during the ownership of the Property, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of

the Flood Act. Such provisions are required notwithstanding the fact that the construction on the Property is not itself funded with assistance provided under this Agreement.

(17) Religious Organizations. If the Borrower is a religious organization, as defined by the HOME requirements, the Borrower shall comply with all conditions prescribed by HUD for the use of HOME funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. 92.257.

(18) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the Loan funds.

(19) Physical Needs Assessment. The Borrower shall conduct, or caused to be conducted, a physical needs assessment on the Development once every five (5) years from the date that the Construction of the Development is completed. The Borrower shall comply with all HUD requirements for conducting and documenting the physical needs assessment and shall provide the County with a copy of all documentation related to each physical needs assessment conducted, or caused to be conducted, by the Borrower. Borrower may pay for such physical needs assessment from the Monitoring Fee Funds, as such term is defined in Section 3.14(c) of the DDA.

Section 4.8 Hazardous Materials.

(a) Borrower shall keep and maintain the Phase III Affordable Development Parcel in compliance with, and may not cause or permit the Phase III Affordable Development Parcel 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 Phase III Affordable Development Parcel including, but not limited to, soil and ground water conditions. Borrower may not use, generate, manufacture, store or dispose of on, under, or about the Phase III Affordable Development Parcel or transport to or from the Phase III Affordable Development Parcel 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) Borrower 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 Borrower or the Phase III Affordable Development Parcel 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 Borrower or the Phase III Affordable Development Parcel 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) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Phase III

Affordable Development Parcel that could cause the Phase III Affordable Development Parcel 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 Phase III Affordable Development Parcel 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 Borrower, provided that no such payment of attorney's fees will be required if the Hazardous Materials Claims arise as a result of the activities of the County or the Park District under the Community Center Facility Lease. Borrower 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 Phase III Affordable Development Parcel 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 Borrower shall have no obligation to indemnify or hold harmless the County with respect to conditions that first existed on the Phase III Affordable Development Parcel prior to the "Commencement Date" as defined in the Housing Lease by which Borrower has obtained an interest in the Phase III Affordable Development Parcel, unless and to the extent liability arises from the Borrower'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 Phase III Affordable Development Parcel; (C) adverse effect on the marketing of any rental space on the Phase III Affordable Development Parcel; 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. The indemnity under this Section 4.8 is subject to the terms and conditions of Section 8.7(e) of the DDA, and any conflicts between the two sections shall be resolved by relying on Section 8.7(e) of the DDA.

(d) Without the County's prior written consent, which will not be unreasonably withheld, Borrower may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Phase III Affordable Development Parcel (other than in emergency situations or as required by governmental agencies having jurisdiction), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims.

Section 4.9 Maintenance and Damage.

(a) During the course of both construction and operation of the Development, Borrower shall maintain the Development in good repair and in a neat, clean and orderly condition, consistent with quality affordable housing developments owned or operated by Related or Related Affiliates. If there arises a condition in contravention of this requirement, and if Borrower has not cured such condition within thirty (30) days after receiving written notice from the County of such a condition, if Borrower is incapable of curing a default within such thirty (30) day period, the County will give the Borrower ninety (90) days to cure such default provided Borrower 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 Phase III Affordable Development Parcel, 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 Borrower, if any improvement now or in the future on the Phase III Affordable Development Parcel is damaged or destroyed, then Borrower 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 Borrower shall make up the deficiency. If Borrower does not promptly make such repairs then any insurance proceeds collected for such damage or destruction are to be promptly delivered by Borrower to the County as a special repayment of the Loan, subject to the rights of HUD and the Senior Lenders, as applicable.

Section 4.10 Fees and Taxes.

(a) Borrower 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 Phase III Affordable Development Parcel or the Development, and shall pay such charges prior to delinquency, 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.

(b) Borrower acknowledges that the Borrower 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 4.11 Notice of Litigation.

Borrower shall promptly notify the County in writing of any litigation related to the Development, and any litigation related to the Borrower 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 4.12 Operation of Development as Affordable Housing.

(a) Promptly after completion of construction Borrower shall operate the Development as an affordable housing development consistent with: (1) HUD's requirements for use of the HOME Funds; (2) the Regulatory Agreement; and (3) any other regulatory requirements imposed on Borrower including but not limited to regulatory agreements associated with the Authority Loan, and Low Income Housing Tax Credits provided by TCAC.

(b) Before leasing any HOME-Assisted Unit in the Development, Borrower shall submit its proposed form of lease agreement for the County's review and approval. The Lease must not contain any provision which is prohibited by 24 C.F.R. 92.253(b) and any modifications thereto. 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 Borrower and the Tenant. Any Borrower termination of a lease agreement for any unit in the Development or refusal to renew must be in conformance with 24 C.F.R. 92.253(c), and must be preceded by not less than sixty (60) days written notice to the Tenant by Borrower specifying the grounds for the action.

(c) Before leasing any HOME-Assisted Unit in the Development, Borrower shall provide the County, for its review and approval, with Borrower's written tenant selection plan (the "Tenant Selection Plan"), which plan shall be in compliance with the requirements of 24 C.F.R. 92.253(d), and the Marketing Plan.

(d) Borrower shall evaluate the income eligibility of each Tenant household in Units pursuant to the County's approved Tenant certification procedures within sixty (60) days before the household's expected occupancy of one of the Units. For all HOME-Assisted Units, Borrower shall certify or cause the property manager to certify each Tenant household's income on an annual basis.

(e) Borrower 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 4.13 Nondiscrimination.

(a) Borrower 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 Phase III Affordable Development Parcel, nor may Borrower or any person claiming under or through Borrower 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 Phase III Affordable Development Parcel. Borrower 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 4.14 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 Borrower 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 Executive Officer is authorized to execute assignment and assumption agreements on behalf of the County to implement any approved Transfer.

(b) Prohibition. Except as expressly permitted in this Agreement, the Borrower represents and agrees that the Borrower shall not make or create, or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the County.

(1) The limitations on Transfers set forth in this Section shall apply throughout the Term.

(2) Any Transfer made in contravention of this Section shall be void and shall be deemed to be a default under this Agreement whether or not the Borrower knew of or participated in such Transfer.

(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 Borrower 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 Borrower, provided that: (i) all documents associated with the admission of an Investor Limited Partner to the Borrower, 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 Loan Documents and the Approved Financing Plan; 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 Financing Plan or as otherwise approved by the County in its reasonable discretion. The County hereby approves the admission of U.S. Bancorp

Community Development Corporation and U.S. Bank National Association, as Investor Limited Partner.

(3) In the event the Borrower admits an 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)(8) 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 Borrower may be transferred with prior written notice to the County.

(4) The removal, or withdrawal in lieu of removal, of Borrower'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 Loan Documents, in the event that the general partner of Borrower is removed by the limited partner of Borrower, or withdraws in lieu of being removed, for cause following default under the Borrower's Partnership Agreement, the County hereby approves the transfer of the general partner interest to an affiliate of the Investor Limited Partner of Borrower (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 Loan Documents and the approved Financing Plan.

(d) During the term of the Loan, Borrower 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. Notwithstanding anything to the contrary, Borrower 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.

(e) Any transfer permitted under Section 9.4 and made in accordance with Section 9.5 of the DDA (but subject to the notification requirements of 4.14(d) above, as applicable) shall be deemed Permitted Transfers hereunder.

Section 4.15 Insurance Requirements.

(a) Borrower 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 Borrower uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Borrower 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 Borrower 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 Borrower and all risks to such persons under this Agreement.

(ii) If Borrower 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 Director of Risk Management.

(iii) With respect to borrowers 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 Borrower 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 Borrower 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 Borrower 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) Borrower shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Borrower 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 Borrower 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 Borrower 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 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 Borrower 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 Borrower shall require the carriers of required coverages 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 Borrower and Borrower's employees or agents from waiving the right of subrogation prior to a loss or claim. The Borrower 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 Borrower shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage prior to the close of Escrow, 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 Borrower shall maintain such insurance from the time Borrower commences performance of services hereunder until the completion of such services. Within fifteen (15) days following the close of Escrow, the Borrower 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 Borrower 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 Borrower 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 Borrower or County disbursements to Borrower 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 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. Borrower 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 4.16 Anti-Lobbying Certification.

(a) Borrower certifies, to the best of Borrower'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 4.17 Covenants Regarding Approved Financing

(a) Borrower shall promptly pay the principal and interest when due on any Approved Financing.

(b) Borrower 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 Borrower by the lender in writing or otherwise, and provide the County copies of any notice of default.

(c) Borrower may not materially amend, modify, supplement, cancel or terminate any of the documents evidencing Approved Financing without the prior written consent of the County, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) Borrower 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 4.18 Affordability and Project Monitoring.

(a) Throughout the Term, the Borrower shall comply with all applicable record keeping and monitoring requirements set forth in (24 C.F.R. Section 92.508) of the HOME Regulations and shall annually complete and submit to County a Certification of Continuing Program Compliance in the form attached hereto as Exhibit G, and incorporated herein.

(b) Representatives of the County (and HUD or its authorized representatives) shall be entitled to enter the Phase III Affordable Development Parcel 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 HOME-Assisted Units, and to conduct an independent audit of such records. The Borrower agrees to cooperate with the County in making the Phase III Affordable Development Parcel available for such inspection. If for any reason the County is unable to obtain the Borrower's consent to such an inspection, the Borrower understands and agrees that the County may obtain, at the Borrower's expense, an administrative inspection warrant or other appropriate legal order to obtain access to and search the Phase III Affordable Development Parcel. The Borrower 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. Unless the County otherwise approves, such records shall be maintained for the most recent five years until five years after the expiration of the HOME Term.

(c) Throughout the Term, the Borrower grants the County inspection rights as set forth in Section 3.15 above, and Borrower shall make best efforts to allow the County to comply with all applicable physical monitoring requirements set forth in (24 C.F.R. Section 92.504(d) and 24 C.F.R. 92.251) of the HOME Regulations.

(d) The County will enforce a per-unit affordability monitoring charge on all HOME assisted developments. HOME assisted developments will be charged as follows:

- 1-20 HOME-Assisted units = \$35.00 per unit/ annually
- 20+ HOME-Assisted units = \$25.00 per unit/ annually

(e) The County will enforce a physical inspection charge on all HOME assisted developments. The inspection charge for HOME assisted development 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 Borrower, 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. The amounts due under subsections (d) and (e) shall be paid from the annual regulatory compliance monitoring fee paid to the County in accordance with Section 3.14(c) of the DDA.

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

(g) 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.

Section 4.19 Crime-Free Multi-Housing Unit Program Participation.

For the entire Term, the Borrower shall cause the property managers to participate in the San Bernardino County Sheriff Department's Crime Free Multi-Housing Unit Program, wherein specialized training and other resources are provided to multi-family property owners and managers to reduce the potential for onsite criminal activity. Completion of the Department's four (4) training phases and a Final Certification (Phase V) shall be achieved and maintained by the property manager.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF BORROWER

Section 5.1 Representations and Warranties.

Borrower 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 Borrower 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. Borrower 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 Borrower delivered to the County are true and correct copies of the originals.

(b) Authority of Borrower. Borrower 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 Loan 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 Loan 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 Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan 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 Loan 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 Borrower 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 Loan 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 Borrower, or any provision of the organizational documents of Borrower, or will conflict with or constitute a breach of or a default under any agreement to which Borrower is a party, or will result in the creation or imposition of any lien upon any assets or property of Borrower, 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. Borrower 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 Borrower, threatened against or affecting Borrower or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower'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, Borrower will have good and marketable leasehold 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 Borrower and other financial data and information furnished by Borrower 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 Borrower from that shown by such financial statements and other data and information.

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

(k) Taxes. Borrower 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 Phase III Affordable Development Parcel 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 Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect upon the Phase III Affordable Development Parcel, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Borrower and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Borrower 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 Borrower 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 Borrower under this Agreement:

(1) Failure to Construct. Failure of Borrower 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 ten (10) days of when such payment is due pursuant to the Loan 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 Borrower, 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 Borrower, which notice provides reasonable detail of the default and the required cure for such default.

(5) Breach of Covenants. Failure by Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan Documents, and Borrower fails to cure such default within forty-five (45) days after receipt of written notice thereof from the County to Borrower, if Borrower is incapable of curing a default within such forty-five (45) day period, the County will give the Borrower one hundred twenty (120) days to cure such default provided Borrower has commenced to cure within such forty-five (45) 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 Borrower to be bankrupt or insolvent; (2) approving as properly filed a petition seeking reorganization of Borrower, or seeking any arrangement for Borrower 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 Borrower in bankruptcy or insolvency or for any of their properties; (4) directing the winding up or liquidation of Borrower 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) Borrower 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.

(8) Assignment; Attachment. Borrower 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.

(9) Suspension; Termination. Borrower 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 Borrower 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 thirty (30) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the County.

(11) Reserved.

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

(13) Representation or Warranty Incorrect. Any Borrower 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 Loan Documents, proves to have been incorrect in any material respect when made.

(14) Failure to Timely Lease. Failure of Borrower to lease all of the HOME-Assisted Units within eighteen (18) months of the Completion of Construction of the Development unless Borrower makes the repayment required under Section 2.7(b) above.

(15) Applicability to General Partner. The occurrence of any of the events set forth in subsection (7), subsection (8), or subsection (9) in relation to Borrower'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 Loan Documents, including but not limited to the following:

(i) Acceleration of Note. The County may cause all indebtedness of Borrower to the County under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. Borrower 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. Borrower 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 Loan Documents. Subject to the rights of Senior Lenders, the Borrower 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 Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan 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 Borrower's Expense. The County has the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. However, if the Borrower is in good faith contesting a claim of default under a loan or grant and the County's interest is not imminently threatened by such default, in the County's sole judgment, the County shall not have the right to cure such default. Borrower shall reimburse the County for any funds advanced by the County to cure a monetary default by Borrower 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.

Borrower 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 Loan 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 Borrower 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 any limited partner of Borrower who has requested written notice from the County, including U.S. Bancorp Community Development Corporation and U.S. Bank National Association ("Permitted Limited Partner") a duplicate copy of all notices of default that the County may give to or serve in writing upon Borrower pursuant to the terms of the Loan 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 Borrower set forth in such notice, during any applicable cure period

described in the Loan Documents, and the County will accept tender of such cure as if delivered by Borrower. If the Permitted Limited Partner is unable to cure a default because Borrower's general partner is in bankruptcy and/or because the cure requires removal of the general partner of Borrower and the Permitted Limited Partner is proceeding diligently to remove the general partner of Borrower 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 Borrower or its agents, employees or contractors, and Borrower 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. Borrower 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, Borrower 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. Borrower 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 Borrower may have employed or with whom Borrower 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 lease of the Phase III Affordable Development Parcel, the construction or operation of the Development, and Borrower 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 Borrower 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 Borrower'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 Borrower. 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 Borrower in the event of any default or breach by the County or for any amount that may become due to Borrower or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third Party Beneficiaries.

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. Borrower 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 Borrower, 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 Borrower. 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.

(d) Borrower shall comply with the conflict of interest provisions set forth in 24 C.F.R. 92.356.

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 Agency
County of San Bernardino
385 North Arrowhead Ave Third Floor
San Bernardino, CA 92415-0043
Attn: Gary McBride

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

Borrower:
Bloomington III Housing Partners, L.P.
c/o The Related Companies of California, LLC
18201 Von Karman Avenue, Suite 900
Irvine, CA 92612
Attn: Frank Cardone

With a copy to:
LBI Valley Bloomington, LLC
c/o LaBarge Industries, Inc.
3105 E Guasti Rd, Suite 100
Attn: Joshua LaBarge

With a copy to:
HPI Bloomington III, LLC
c/o Housing Partners I, Inc.
715 E. Brier Drive
San Bernardino, CA 92408
Attn: Community Development and Housing Director

With a copy to:

U.S. Bancorp Community Development Corporation
1307 Washington Avenue, Suite 300
Mail Code: SL MO RMCD
St. Louis, MO 63103
USB Project No: 26599
Attn.: Director of LIHTC Project Management
Attn: Director of LIHTC Asset Management

With a copy to:

Bocarsly Emden Cowan Esmail & Arndt, LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attn: Lance Bocarsly

With a copy to:

Dentons US LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606
Attn: Jana Cohen Barbe, Esq.

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 Executive Officer is authorized to execute on behalf of the County amendments to the Loan Documents or amended and restated Loan 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 Executive Officer to execute the ancillary Loan 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 Borrower

defaults under the Loan 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 Borrower and its successors and assigns in the Phase III Affordable Development Parcel 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 lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit from the other party.

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, 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 Borrower'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 Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower 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 Borrower 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 Loan 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 Borrower's Investor Limited Partner:

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

(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 Loan 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 Loan 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 Borrowers by the County Executive Officer, without further approval by the County Board. Any such action shall be in writing.

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

BORROWER:

BLOOMINGTON III HOUSING PARTNERS, L.P., a California limited partnership

By: Related/Bloomington III Development Co., LLC, a California limited liability company, its managing general partner

By: _____
Frank Cardone, President

By: LBI Valley Bloomington, LLC, a California limited liability company, its general partner,

By: LaBarge Industries, LLC, a Delaware limited liability company, its sole member

By: _____
Josh LaBarge, Manager

By: HPI Bloomington III LLC, a California limited liability company, its co-general partner

By: Housing Partners I, Incorporated, a California nonprofit public benefit corporation, its sole member and manager

By: _____
Maria Razo, Secretary and Treasurer

[Signature Page Continues]

COUNTY:

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

By: _____
Curt Hagman, Chair
Board of Supervisors

Date: _____

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
Of the County of San Bernardino

By: _____
Deputy

APPROVED AS TO LEGAL FORM:
MICHELLE D. BLAKEMORE
County Counsel

By: _____
Suzanne Bryant, Deputy County Counsel

Date: _____

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land is situated in the State of California, County of San Bernardino, and is described as follows:

APN: _____

EXHIBIT A-2

LEGAL DESCRIPTION OF THE PHASE III AFFORDABLE DEVELOPMENT PARCEL

The land is situated in the State of California, County of San Bernardino, and is described as follows:

Metes and Bounds Description of the proposed Affordable Development Air Right Parcel:

ALL THAT PORTION OF THE LAND LOCATED IN NORTH 1/2 OF LOT 86, MARYGOLD ACRES TRACT, AS PER PALT RECORDED IN BOOK 19 OF MAPS, PAGE 15, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF MARYGOLD AVENUE AND GRACE STREET;
THENCE ALONG THE CENTERLINE OF MARYGOLD AVENUE SOUTH 89°28'50" WEST, 495.12 FEET;
THENCE SOUTH 00°26'44" EAST, 600.29 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89°32'42" EAST, 88.32 FEET;
THENCE SOUTH 00°26'44" EAST, 13.30 FEET;
THENCE NORTH 89°33'16" EAST, 112.60 FEET;
THENCE SOUTH 00°26'44" EAST, 2.97 FEET;
THENCE NORTH 89°33'16" EAST, 26.42 FEET;
THENCE SOUTH 00°26'44" EAST, 4.05 FEET;
THENCE NORTH 89°33'16" EAST, 5.80 FEET;
THENCE NORTH 00°26'44" WEST, 1.02 FEET;
THENCE NORTH 89°33'16" EAST, 14.16 FEET;
THENCE NORTH 00°26'44" WEST, 19.32 FEET;
THENCE NORTH 89°32'07" EAST, 82.76 FEET;

THENCE SOUTH 00°26'44" EAST, 655.73 FEET TO A POINT OF THE NORTHERLY RIGHT OF WAY LINE OF VALLEY BOULEVARD;
THENCE ALONG SAID RIGHT OF WAY SOUTH 89°28'25" WEST, 330.06 FEET;
THENCE NORTH 00°26'44" WEST, 656.13 FEET TO THE POINT OF BEGINNING;

CONTAINING 214,175 SF OR 4.91 ACRES MORE OR LESS.

APN: _____

[Note- Please note that this exhibit may be substituted by Title company to reflect recording of Parcel Map 20012.]

EXHIBIT B

APPROVED FINANCING PLAN

EXHIBIT C

SCHEDULE OF PERFORMANCE

This Schedule of Performance sets forth the schedule for various activities under the 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. Times for performance are subject to Force Majeure, as further provided in Section 7.15 of the Agreement, and the notice and cure rights as further provided in Section of the Agreement.

As provided in the Agreement, this Schedule of Performance may only be modified in a writing executed by all Parties, in accordance with Section 7.9 of the Agreement.

ITEM OF PERFORMANCE	TIME FOR PERFORMANCE
<u>Land Use Entitlements.</u> The Developers shall cause the Governmental Approvals to be obtained.	Completed.
<u>Final Parcel Map.</u> Affordable Developer to prepare and submit a condominium, parcel and/or subdivision map which upon recordation will become the Final Map.	Tentative Parcel Map No. 20012 has been approved. Final Map will be recorded concurrently with the Close of Escrow
<u>Corporate Authorizations and Prefunding Requirements.</u> Developers to provide organizational documents and authorizing resolutions.	On or before June 25, 2019
<u>Land Disposition, Development and Funding Agreement.</u> Developers and County will cause approval of the document with exhibits.	June 25, 2019
<u>Tax Credit Application.</u> Partnership shall complete and submit a 9% Tax Credit application to TCAC.	Not later than July 1, 2019. Deemed completed.
<u>Tax Credit Reservation.</u> Partnership receives an allocation of credits from TCAC. [Sec 5.11(c)]	Within 120 days of submittal of a successful application. Deemed completed.
<u>Partnership/Submission of Final Construction Documents.</u> Partnership shall submit to County for plan check the final construction documents for the Phase III	Not later than 120 days after receipt by Partnership from TCAC of a reservation of Tax Credits for the Phase III Development.

Development.	
<u>Management Plan.</u> Partnership submits an initial proposed Management Plan for the Phase III Affordable Development to the County for approval.	On or before the Close of Escrow.
<u>County Approved Management Plan.</u> County to approve Management Plan.	Not later than fifteen (15) business days after receipt of a complete Management Plan from Partnership.
<u>Partnership/Project Financing.</u> Partnership shall submit to Executive Director for approval updates to the Approved Affordable Housing Financing Plan. County to deliver to Community Center Developer the Approved Community Center Financing Plan.	Attached to this Agreement, but subject to further modifications and inclusion in the County Estoppel required to be signed at the Close of Escrow.
<u>Chief Executive Officer/Project Financing.</u> The Chief Executive Officer, upon consultation with County Counsel shall approve, conditionally approve or disapprove updates to the Approved Affordable Housing Plan.	Not later than ten (15) days after receipt of updates to the Approved Affordable Housing Plan.
<u>Construction Contract.</u> Partnership shall submit Construction Contract to County for approval.	Not less than fifteen (15) days prior to the Close of Escrow.
<u>Construction Contract Approval.</u> The County shall approve, conditionally approve, or disapprove of the Construction Contract.	Not later than ten (10) days after receipt of Construction Contract from Partnership.
<u>Insurance Requirements.</u> Partnership to furnish insurance coverage meeting the requirements.	On or before the Close of Escrow.
<u>Building Permits.</u> Partnership shall obtain Building Permits for the development and the community center.	Not later than 194 days after receipt by Partnership from TCAC of a reservation of Tax Credits for the Project.
<u>Reciprocal Easement Agreement/Joint Use Agreement.</u> Developers shall prepare and execute a Reciprocal Easement Agreement and a Joint Use Agreement (or an amendment to an existing joint use agreement).	On or before the Close of Escrow.

<p><u>Community Center Facility Lease.</u> Community Center and Park District shall execute the Community Center Facility Lease.</p>	<p>Prior or concurrent with the Close of Escrow.</p>
<p><u>Close of Escrow.</u> The Affordable Developer has closed all construction financing for the Phase III Affordable Development and has provided evidence reasonably acceptable to the County that the Affordable Developer is prepared to commence construction of the Phase III Development. Community Center Developer has provided evidence reasonably acceptable to the County that the Community Center Developer is prepared to commence construction of the Community Center Improvements.</p>	<p>Not later than 194 days after receipt by Partnership from TCAC of a reservation of Tax Credits for the Project—or as otherwise required by TCAC.</p> <p>Close of Escrow shall occur within thirty (30) days following the date on which all conditions precedent to conveyance set forth in Article 5 have been satisfied</p>
<p><u>Commence Construction.</u> Partnership shall commence construction of Phase I of the development.</p>	<p>No later than ten (10) days after the Close of Escrow, but in no event later than May 31, 2021. (Subject to Force Majeure and other extension under the Agreement.)</p>
<p><u>Completion of Construction.</u> Developers shall complete construction of the development.</p>	<p>Not later than 24 months after the Close of Escrow, but in no event later than May 31, 2023. (Subject to Force Majeure and other extension under the Agreement.)</p>
<p><u>Special Repayment of Net Excess Proceeds.</u> The Affordable Developer shall pay to the County one-hundred percent (100%) of the Net Excess Proceeds, as a special repayment of the County Loan.</p>	<p>No later than ten (10) days after the date the Affordable Developer receives its final Tax Credit Investor Equity contribution</p>
<p><u>Certificates of Completion.</u> County will provide the Developers with one or more Certificates of Completion for the Phase III Development.</p>	<p>Promptly after completion of the Phase III Development, and upon written request from the Developers, and the County's determination that the Developers' various obligations with regards to completion of the Phase III Development under this Agreement have been met.</p>

EXHIBIT D

FORM OF PROMISSORY NOTE

EXHIBIT E

FORM OF LEASEHOLD DEED OF TRUST

EXHIBIT F

FORM OF REGULATORY AGREEMENT

EXHIBIT G

CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

EXHIBIT H

SECTION 3 COMPLIANCE

EXHIBIT I

STATEMENT OF RESIDUAL RECEIPTS