
INDENTURE OF TRUST

between

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

Relating to

\$10,000,000
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Bonds
(McMullen Square)
Series 2019

Dated as of January 1, 2019

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this “Indenture”) dated as of January 1, 2019, by and between the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public, and official agency of the State of Texas (together with its successors and assigns, the “Issuer”), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as trustee (together with its successors and assigns, the “Trustee”).

WITNESSETH:

WHEREAS, by virtue of the authority of the laws of the State of Texas, and particularly the Act (as defined herein), the Issuer is empowered to issue its revenue bonds and to use the proceeds thereof to provide money to aid in financing the acquisition, rehabilitation and equipping of residential rental property for dwelling units; and

WHEREAS, the Issuer has determined to issue and sell its Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 in the aggregate principal amount of \$10,000,000 (“Bonds”), to fund a loan (the “Bond Loan”) to TCD MCM, LP, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”) for the purpose of financing the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing facility, consisting of a total of 100 units and related personal property and equipment, and located in the City of San Antonio, Bexar County, Texas (the “Project”) all pursuant to this Indenture and a Loan Agreement, dated as of the date hereof (as amended, modified or supplemented from time to time, the “Bond Loan Agreement”), among the Issuer, the Borrower and JPMorgan Chase Bank, N.A. (the “Bank”); and

WHEREAS, under the terms of the Bond Loan Agreement, the Issuer has agreed to make the Bond Loan to the Borrower; and the Borrower has agreed to the repayment of the sums borrowed pursuant thereto as evidenced by a promissory note (the “Note”) and has executed or caused to be executed the Mortgage and the Bond Loan Documents (as such terms are hereinafter defined) with respect to the Project to secure, among other things, its payment and other obligations under the Bond Loan Agreement; and

WHEREAS, the Issuer is authorized to enter into this Indenture and to do or cause to be done all the acts and things herein provided or required to be done to finance costs of the Project by the issuance of the Bonds, all as hereinafter provided; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Bonds have been in all respects duly and validly authorized by the Issuer; and

WHEREAS, all acts, conditions and things required to happen, exist, and be performed precedent to and in the issuance of the Bonds and the execution and delivery of this Indenture have happened, exist and have been performed in order to make the Bonds, when issued, delivered and authenticated, valid obligations of the Issuer in accordance with the terms thereof and hereof, and in order to make this Indenture a valid, binding and legal trust agreement for the security of the Bonds in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture and has accepted its obligations hereunder, and in evidence thereof, this Indenture has been executed and delivered thereby; and

WHEREAS, simultaneously with the delivery of this Indenture, the Borrower will enter into a Swap Agreement (as defined herein) and will be obligated to make payments thereunder; and

WHEREAS, terms not otherwise defined in the recitals or granting clauses hereof shall have the meanings as hereinafter defined; and

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

The Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders thereof, in order to secure the payment of the principal and premium, if any, of and interest on the Bonds according to its tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant, assign, transfer in trust, and pledge to the Trustee, and to its successors in trust, and to them and their assigns, the following:

GRANTING CLAUSE FIRST

All right, title and interest of the Issuer (excluding Reserved Rights) in and to the Bond Loan Agreement and the Note, including, but not limited to, all sums (including Project Revenues) which the Issuer is entitled to receive from the Borrower pursuant to the Bond Loan Agreement and the Note (but excluding Reserved Rights), all moneys and investments held in Funds and accounts held by the Trustee under this Indenture (excluding moneys and investments held in the Rebate Fund and rebatable arbitrage required to be deposited in the Rebate Fund and amounts in the Costs of Issuance Fund unless and to the extent funded with Proceeds of the Bonds), and all other sums required to be deposited in the Funds and accounts in accordance with Article V of this Indenture;

GRANTING CLAUSE SECOND

All the Issuer's right, title and interest in all property mortgaged, pledged and assigned under the Mortgage and the Bond Loan Documents to secure the Bonds, all rights, remedies and amounts payable under the Guaranty and any and all other property of every name and nature which may from time to time hereafter by delivery or by writing of any kind be subjected to the lien hereof by the Issuer or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to receive any and all such property at any and all times and to hold and apply the same as additional security hereunder subject to the terms hereof; and

GRANTING CLAUSE THIRD

The earnings derived from the investment of any of the foregoing sums (excluding moneys and investments held in the Rebate Fund and rebatable arbitrage required to be deposited in the Rebate Fund) as provided herein.

TO HAVE AND TO HOLD all the same (herein called the "Trust Estate") with all privileges and appurtenances hereby granted and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and proportionate benefit, security and protection of all Holders from time to time of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to the lien or otherwise of any Bond over any other Bond except as otherwise provided herein, all for the uses and purposes and upon the terms, agreements and conditions set forth herein;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or provide fully for payment as herein provided of the principal of the Bonds and the interest due or to become due thereon (together with premium, if any), at the time and in the manner set forth in the Bonds according to the true intent and meaning thereof, and shall make the payments into the Bond Fund as required hereby or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee sums sufficient for payment of the entire amount due or to become due thereon as herein provided, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease and terminate, except as otherwise provided herein.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that the Bonds issued and secured hereunder are to be issued, authenticated and delivered and all payments, revenues, income and funds hereby pledged and assigned, are subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the holders and owners of the Bonds, as follows:

ARTICLE I

DEFINITIONS, EXHIBITS AND GENERAL PROVISIONS

Section 1.01. Definitions. In this Indenture the following terms have the following meanings unless the context hereof clearly requires otherwise, and any other terms defined in the Bond Loan Documents shall have the same meanings when used herein as assigned them in the Bond Loan Documents unless the context or use thereof indicates another or different meaning or intent:

“Act” means Chapter 2306, Texas Government Code, as amended.

“Act of Bankruptcy” means any of the following events:

(a) The Borrower or the Issuer shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of the Borrower or the Issuer or of all or a substantial part of the property of the Borrower or the Issuer, (ii) commence a voluntary case under the Bankruptcy Code (as now or hereafter in effect) or (iii) file a petition with respect to itself seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts; or

(b) A proceeding or case shall be commenced without the application or consent of the Borrower or the Issuer, as the case may be, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding up or the composition or adjustment of debts of the Borrower or the Issuer, (ii) the appointment of a trustee, receiver, custodian or liquidator of the Borrower or the Issuer or of all or any substantial part of the assets of the Borrower or the Issuer or (iii) similar relief in respect of the Borrower or the Issuer under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts and such proceeding or case shall not be dismissed within 60 days of such filing.

For purposes of this Indenture and the Bond Loan Agreement, an Act of Bankruptcy shall be deemed dismissed only if (A) the petition is dismissed by order of a court of competent jurisdiction and no further rights exist from such order and (B) the Borrower or the Issuer, as the case may be, notifies the Trustee that such a dismissal has occurred.

“Additional Charges” means payments required to be paid by the Borrower to the Issuer and the Trustee pursuant to Section 3.27 of the Bond Loan Agreement.

“Amortization Commencement Date” means the date which is 18 months from the Closing Date.

“Amortization Schedule” means the amortization schedule provided by the Permanent Lender, in the form attached as Exhibit C to the Bond Loan Agreement, as may be revised from time to time pursuant to Section 3.05 of this Indenture.

“Applicable Rate” means the Tax Exempt Rate or Taxable Rate as in effect from time to time with respect to the Bonds.

“Assignment” means the Assignment of Deed of Trust and Bond Loan Documents by the Issuer assigning to the Trustee as an assignee all of the Issuer’s rights under the Bond Loan Agreement, Note and Mortgage (except Reserved Rights).

“Authorized Borrower Representative” means, with respect to the Borrower, any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer, the Bondowner Representative and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower (including any successor or assign) if the Borrower is a general partnership or a limited partnership, any authorized managing member or manager of the Borrower (including any successor or assign) if the Borrower is a limited liability company, or by any authorized officer of the Borrower (including any successor or assign) if the Borrower is a corporation, which certificate may designate an alternate or alternates, or, in the event that such term shall refer to successors or assigns of the Borrower, any authorized general partner if the successor or assignee is a general partnership or a limited partnership, any authorized managing member or manager if the successor or assignee is a limited liability company, or any authorized officer if the successor or the assignee is a corporation. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it and with the Issuer and the Bondowner Representative a written certificate identifying a different person or persons to act in such capacity.

“Authorized Denomination” means \$100,000 principal amount and any multiple of \$1.00 in excess thereof.

“Authorized Officer” means the Chair or Vice Chair of the Board, the Executive Director or Acting Director of the Issuer, the Director of Administration of the Issuer, the Director of Bond Finance and Chief Investment Officer of the Issuer, the Director of Texas Homeownership of the Issuer, and the Secretary or Assistant Secretary to the Board.

“Bank” means JPMorgan Chase Bank, N.A., a national banking association or its successors and assigns.

“Bankruptcy Code” means the United States Bankruptcy Reform Act of 1978, as amended, or any similar or succeeding federal bankruptcy law.

“Basic Payments” means the payments of principal, interest and premium required to be made by the Borrower pursuant to the Note, as calculated by the Bondowner Representative.

“Board” means the Governing Board of the Issuer.

“Bond Counsel” means Bracewell LLP, or any law firm of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of tax-exempt obligations and appointed by the Issuer.

“Bond Documents” means this Indenture, the Bond Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement.

“Bond Fund” means the Fund created by Section 5.04 of this Indenture.

“Bond Loan” means the loan of Sale Proceeds of the Bonds by the Issuer to the Borrower described in the Bond Loan Agreement.

“Bond Loan Agreement” means the Loan Agreement with respect to the Bond Loan dated as of the date hereof, among the Issuer, the Bank and the Borrower, as the same may from time to time be amended or supplemented as provided therein and in this Indenture.

“Bond Loan Documents” means the Bond Loan Agreement, the Note, the Mortgage, the Regulatory Agreement, and all other documents or agreements evidencing or relating to the Bond Loan.

“Bond Purchase Agreement” means the Bond Purchase Agreement by and among the Issuer, the Bank and the Borrower dated as of _____, 2019, as the same may be amended, modified or supplemented from time to time.

“Bond Register” means the bond register maintained by the Bond Registrar pursuant to Section 2.11 of this Indenture.

“Bond Registrar” means Wilmington Trust, National Association, and any successor thereto appointed, qualified and then acting as such under the provisions of this Indenture.

“Bond Year” has the meaning given to such term in the Tax Exemption Agreement.

“Bondholder,” “Bondowner” or “Holder” means the person in whose name a Bond is registered in the Bond Register.

“Bondowner Representative” means (a) the Bank or any affiliate of thereof (or any successor to the Bank, whether by merger, acquisition of assets or otherwise), so long as the Bank or such affiliate owns a majority in aggregate outstanding principal amount of the Bonds and (b) if neither the Bank nor any affiliate of the Bank (or any such successor) owns a majority in aggregate outstanding principal amount of the Bonds, then the Majority Bondholder or a Person appointed to be the Bondowner Representative by such Majority Bondholder (or by a majority of the Bondholders if there is no Majority Bondholder).

“Bonds” means the Issuer’s Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 issued pursuant to this Indenture.

“Borrower” means TCD MCM, LP, a Texas limited partnership, authorized to do business in the State, its successors and assigns, and any surviving, resulting or transferee entity which may assume its obligations under the Bond Loan Documents.

“Business Day” means any day (a) other than a Saturday, Sunday, legal holiday or in the State, (b) a day on which banking institutions in the city, where the principal corporate trust office of the Trustee and the Bond Registrar are located, are authorized by law or executive order to close and (c) when used in

connection with the LIBO Rate the term “Business Day” shall also exclude any day on which Banks are not open for dealings in U.S. Dollar deposits in the London interbank market.

“Casualty Proceeds” means the proceeds of any insurance recovery or condemnation award (or payment in lieu of condemnation) less amounts reimbursed to the Trustee and the Issuer for expenses incurred in connection therewith.

“Closing Date” means the date upon which the Bonds are issued and delivered in exchange for the proceeds representing the purchase price of the Bonds paid by the original purchasers thereof.

“Code” or “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Completion Date” means the date shown as the Completion Date in Exhibit J to the Bond Loan Agreement, or such later date as the Bondowner Representative approves.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“Condemnation” or the phrase “eminent domain” as used herein shall include the taking or requisition by Governmental Authority or by a person, firm or corporation acting under governmental authority and a conveyance made under threat of such taking or requisition, and “Condemnation Award” shall mean payment for property condemned or conveyed under threat of Condemnation.

“Conditions to Conversion” means the conditions listed in the Forward Bond Purchase Agreement.

“Conditions to Extension” means (a) with respect to the first extension, that the Project is substantially complete as evidenced by a temporary certificate of occupancy, receipt of a certificate of substantial completion from the architect for the Project and concurrence by the Banks construction consultant, (b) no Event of Default or event that with notice or passage of time, or both, would constitute any Event of Default exists under any of the Bond Loan Documents, Construction Disbursement Agreement or Forward Bond Purchase Agreement, (c) no default exists and any applicable notice and/or cure period under the Partnership Agreement remain funds in the Interest Account, and net operating income for the Project calculated for the most recent three (3) months, and/or funds deposited with the Trustee on or before the commencement of the extension period as sufficient to pay estimated interest and fees during the entire extension period, (d) that portion of the capital contributions due on the Partnership Agreement due and payable as the date of the extension had been funded, (e) all representations and warranties made in the Bond Loan Documents, Construction Disbursement Agreement and Forward Bond Purchase Agreement shall be true and correct in all material respects as of the date of extension, except to the extent any such representation and warranty is made as of a specified date, in which such representation and warranty shall have been true and correct as of such specified date, (f) no material adverse change has occurred in the financial or other condition of the Borrower, any Guarantor or the Project and (g) the Bank has received at least thirty (30) but not more than ninety (90) days prior written notice and extension fee of 0.25% of the face amount of the Bonds (less the amount of any redemption) is paid by the Borrower to the Bank. With respect to extensions after the first extension the above (b) through and including (g) shall have been satisfied and (i) a final certificate of occupancy or temporary certificate of occupancy meeting the requirements of the Permanent Lender and Investor Limited Partner with respect to extensions shall have been satisfied and (ii) at least ninety percent (90%) of the rental units at the Project are rented to bona fide tenants paying rent with no offset at not less than the rents projected.

“Construction Disbursement Agreement” means the Construction Disbursement Agreement dated as of _____ 1, 2019 between the Borrower and the Bank, as may be amended, supplemented or modified from time to time.

“Construction Term” means the period beginning on the Closing Date and ending on (a) the date of the Conversion Certificate, if the Conditions to Conversion have been satisfied or waived by the Permanent Lender, or (b) the Amortization Commencement Date, if the Conversion Conditions have not been waived or satisfied by the Permanent Lender.

“Conversion Certificate” means the Conversion Certificate from the Permanent Lender confirming the satisfaction or waiver of the Conditions to Conversion.

“Conversion Date” means the date specified in the Conversion Certificate.

“Costs of Issuance” has the meaning given to such term in the Tax Exemption Agreement.

“Costs of Issuance Fund” means the fund created by Section 5.10 of this Indenture.

“Dated Date” means the Closing Date.

“Debt Service on the Bonds” means the interest amounts and principal amounts sufficient to pay all principal of and interest, as and when due, on the Bonds, which shall be payable by the Borrower pursuant to the Bond Loan Agreement and the Note.

“Default Rate” means five percent (5%) per annum in excess of the interest rate borne by the Bonds from time to time, but in no case in excess of the Maximum Rate.

“Defeasance Collateral” shall have the meaning set forth in Section 7.01 of this Indenture.

“Determination of Taxability” means a final judgment or order of a court of original jurisdiction, a final order of any other court of competent jurisdiction, or a final ruling or decision of the Internal Revenue Service, in any such case to the effect that the interest on the Bonds (other than interest on any Bond for a period during which such Bond is held by a “substantial user” of any facility financed with the Proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code) is not excludable from the gross income for federal income tax purposes. With respect to the foregoing, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal or action has expired.

“Developer” means Triton Community Development, LLC.

“Development Fee” means _____.

“Discharge Date” means the date on which all outstanding principal of the Bonds is discharged under Article VII of this Indenture.

“Event of Default” means a default as set forth in Article VIII of this Indenture.

“Extraordinary Fees and Expenses” means all fees and expenses charged or incurred by the Trustee under this Indenture or the Bond Loan Agreement, other than Ordinary Fees and Expenses.

“Facility” means the buildings and improvements located on the Project Premises as they may now or from time to time exist.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Bonds under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient thereof).

“Forward Bond Purchase Agreement” means the Forward Bond Purchase Agreement dated as of _____, 2019 among the Bank as the original purchaser, the Permanent Lender and the Borrower, as the same may be supplemented, amended or modified from time to time.

“Funds” means, collectively, the Revenue Fund, the Bond Fund, the Project Fund, the Rebate Fund and the Costs of Issuance Fund.

“General Partner” means TCD McMullen GP, LLC, a Texas limited liability company, and its permitted successors and assigns, subject to the provisions of the Regulatory Agreement.

“Governmental Authority” means any government, municipality or political subdivision thereof; any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body; any court, administrative tribunal or public utility; or any central bank or comparable authority.

“Guarantor” means individually and collectively Triton Community Development, LLC, a California limited liability company, and its permitted successors and assigns and William E. Rice, an individual.

“Guaranty” means the Payment and Performance Guaranty executed as of even date herewith by Guarantor in favor of the Issuer, with respect to the Note, and assigned to the Trustee.

“Indenture” means this Indenture of Trust by and between the Issuer and the Trustee, as the same may from time to time be amended or supplemented as herein provided.

“Independent Accountant” means a certified public accountant or firm of certified public accountants registered and qualified to practice as such under the laws of the State, and not employed by the Issuer or the Borrower, except to perform independent audits of the books and records of either or both of them or other similar periodic reviews and to perform other independent services.

“Independent Counsel” means any attorney acceptable to Bondowner Representative, duly admitted to practice law before the highest court of any state or of the District of Columbia, who may be counsel to the Issuer but who may not be an officer or an employee of the Issuer.

“Initial Bond” means the initial Bond registered by the Comptroller and subsequently canceled and replaced by a definitive Bond pursuant to this Indenture.

“Interest Account” means the Interest Account of the Bond Fund.

“Investment Proceeds” is defined in Section 1.148-1(b) of the Regulations and generally consists of any amounts actually or constructively received from investing Proceeds.

“Investor Limited Partner” means Hunt Capital Partners Tax Credit Fund 27, LP, a Delaware limited partnership, any permitted affiliate thereof, and its permitted successors and assigns.

“Issuer” means the Texas Department of Housing and Community Affairs, a public and official agency of the State, and its successors and assigns.

“Issuer Administration Fee” means the fee payable annually in advance to the Issuer on each January 1, in the amount of .10% per annum of the aggregate principal amount of Bonds Outstanding at the inception of each payment period. On the Closing Date, the Borrower will pay the Issuer Administration Fee in advance to the Issuer for the period from the Closing Date to December 31, 2020. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), payable solely from funds provided by the Borrower, all payments of the Issuer Administration Fee due on or after January 1, 2021.

“Issuer Compliance Fee” means the fee payable annually in advance to the Issuer on each January 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual Issuer Compliance Fee shall be paid on the Closing Date. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), solely from funds provided by the Borrower, all payments of the Issuer Compliance Fee due on or after January 1, 2022. The Issuer Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“Issuer Fees” means, collectively, the Issuer Administration Fee and the Issuer Compliance Fee.

“LIBO Rate” means for any day the rate for borrowed funds in the interbank market in London and United States Dollars for maturities for one month, rounded upward, if necessary to 1/16 of 1%, as determined that approximately 11:00 a.m. London time two (2) Business Days prior to such date. Such rate shall be determined by the Bondholder Representative based upon the London Interbank Offer Rate as administered by the Ice Benchmark Administration or any other entity that takes over administration of such rate for the United States dollars. Any LIBO Rate less than zero shall be deemed to be zero.

“Limited Partner” means the Investor Limited Partner and the Special Limited Partner.

“Majority Bondholder” means any Bondholder owning 50% or more of the aggregate outstanding principal of the Bonds.

“Maturity Date” means January 31, 2036.

“Maximum Rate” means the lesser of (i) 12% per annum or (ii) maximum rate allowed by applicable law, if any.

“Mortgage” means the Construction and Permanent Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith, from the Borrower as trustor to the Issuer as beneficiary (as assigned to the Trustee) with respect to the Project, as the same may from time to time be replaced, amended or supplemented as provided therein and in this Indenture.

“Mortgage Default” means the occurrence and continuance of a default under the Mortgage.

“Mortgaged Property” means the properties, real, personal or mixed, described in the Granting Clauses of the Mortgage, as they may at any time exist.

“Mortgagee” means, collectively, the Trustee and any co-trustee or successor trustee appointed, qualified and acting as such under this Indenture, as beneficiaries under the Mortgage.

“Net Proceeds” means any Proceeds, less any Proceeds on deposit in a Reasonably Required Reserve or Replacement Fund.

“Note” means that certain Promissory Note, dated as of the Dated Date, executed by the Borrower in favor of the Issuer, in the original principal amount of \$10,000,000.

“Operations Office of Trustee” and “Operations Office of Paying Agent” mean the office of the Trustee at 15950 North Dallas Parkway, Suite 550, Dallas, TX 75248..

“Ordinary Fees and Expenses” means the fees and expenses charged or incurred by the Trustee in the fulfillment of its obligations hereunder which are reimbursable to the Trustee from the Trust Estate, including (i) an annual fee of no less than \$[3,500] to be billed in advance; provided that the fee for the first year shall be paid on the Closing Date; and (ii) from time to time all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Indenture.

“Outstanding Bonds” or “Bonds Outstanding” means, as of the date of determination, the aggregate principal amount of the Bonds theretofore issued and delivered under this Indenture except:

(a) any portion of the Bonds theretofore canceled by the Trustee or Paying Agent or delivered to the Trustee or Paying Agent for cancellation;

(b) any portion of the Bonds for which payment or redemption moneys or securities (as provided in Article VII) shall have been theretofore deposited with the Trustee or Paying Agent in trust for the Holders of the Bonds; provided, however, that if such portion of the Bonds is to be redeemed, notice of such redemption shall have been duly given pursuant to this Indenture or irrevocable action shall have been taken to call such Bonds for redemption at a stated redemption date; and

(c) any Bond in exchange for or in lieu of which another Bond shall have been issued and delivered pursuant to Section 2.07 or other provisions of this Indenture.

“Partnership Agreement” means that certain Amended and Restated Agreement of Limited Partnership of Borrower dated as of January __, 2019, by the General Partner and Limited Partner and as it may be amended from time to time.

“Paying Agent” means the Bond Registrar, the Trustee or any other entity designated pursuant to this Indenture as the agent of the Issuer to receive and disburse the principal of and premium, if any, and interest on the Bonds.

“Payment Date” means the first day of each month, commencing _____ 1, 2019, and any Redemption Date and the Maturity Date.

“Permanent Lender” means Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation, and its permitted successors and assigns.

“Permanent Term” means the term commencing on the earlier of (i) the Conversion Date or (ii) the Amortization Commencement Date, and ending fifteen (15) years thereafter; provided, the Permanent Term shall end not later than the Maturity Date.

“Permitted Encumbrances” means the permitted encumbrances listed in Exhibit B of the Mortgage, including particularly the Subordinate Mortgage.

“Permitted Investments” means:

(a) To the extent permitted by applicable law, any of the following investments, provided that, except for investment agreements, investments permitted under Article VI hereof and investments approved by the Bondowner Representative during the Permanent Term, none shall have a term in excess of one year:

(i) certificates or interest bearing notes or obligations of the United States, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest;

(ii) investments in any of the following obligations, provided such obligations are backed by the full faith and credit of the United States: (A) direct obligations or fully guaranteed certificates of beneficial interest of the Export Import Bank of the United States, (B) debentures of the Federal Housing Administration, (C) guaranteed mortgage backed bonds of the Government National Mortgage Association, (D) certificates of beneficial interest of the Farmers Home Administration, (E) obligations of the Federal Financing Bank, (F) project notes and local authority bonds of the United States Department of Housing and Urban Development or (G) obligations of the Private Export Funding Corp.;

(iii) investments in (A) senior obligations of the Federal Home Loan Bank System, (B) participation certificates or senior debt obligations of the Federal Home Loan Mortgage Corporation, (C) mortgage backed securities and senior debt obligations (excluding stripped mortgage securities that are valued greater than par on the portion of the unpaid principal) of Fannie Mae or (D) senior debt obligations of the Student Loan Marketing Association;

(iv) repurchase agreements with primary dealers and/or banks rated “A” or better by the Rating Agency collateralized with the obligations described in (i) or (ii) above held by a third party custodian, at levels set forth in subsection (b) below;

(v) money market mutual funds that invest primarily in direct obligations issued by the U.S. Treasury and repurchase agreements backed by those obligations, including funds for which the Trustee or an affiliate of the Trustee acts as an advisor, and rated in the highest category by the Rating Agency, including, but not limited to, the **[INSERT NAME OF FUND]**;

(vi) certificates of deposit of any bank (including the Trustee), trust company or savings and loan association (including the Bank) whose short term obligations are rated “A 1” or better by the Rating Agency provided that such certificates of deposit are fully secured by the obligations described in (i) or (ii) above, at the levels set forth in subsection (b) below, the Trustee has a perfected first security interest in the obligations securing the certificates and the Trustee holds (or shall have the option to appoint a bank, trust company or savings and loan association as its agent to hold) the obligations securing the certificates;

(vii) certificates of deposit of any bank (including the Trustee), trust company or savings and loan association (including the Bank or any of its affiliates) which certificates are fully insured by the Federal Deposit Insurance Corporation;

(viii) commercial paper rated “A 1+” or better by the Rating Agency;

(ix) obligations of, or obligations fully guaranteed by, any state of the United States of America or any political subdivision thereof which obligations are rated by the

Rating Agency in the highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise and without regard to credit enhancement) assigned by such rating agency to obligations of that nature; and

(x) investment agreements approved in writing by the Bondowner Representative.

(b) Collateral Percentage Levels of United States Government Securities for Repurchase Agreements and Bank Certificates of Deposit.

Frequency of <u>Valuation</u>	<u>Remaining Maturity</u>				
	1 year <u>or less</u>	5 years <u>or less</u>	10 years <u>or less</u>	15 years <u>or less</u>	30 years <u>or less</u>
Daily	102	105	106	107	113
Weekly	103	110	111	113	118
Monthly	106	116	119	123	130
Quarterly	106	118	128	130	135

Further Requirements:

(i) on each valuation date, the market value of the collateral shall be in an amount equal to the indicated collateral percentage of the obligation (including unpaid accrued interest) that is being secured;

(ii) in the event the collateral level is below its required collateral percentage on a valuation date, such percentage shall be restored within the following restoration periods: one Business Day for daily valuations, two Business Days for weekly valuations and one month for monthly and quarterly valuations. The use of different restoration periods affects the requisite collateral percentage;

(iii) the Trustee is hereby directed to terminate the repurchase agreement upon a failure to maintain the requisite collateral percentage after the restoration period and, if not paid by the counterparty in federal funds against transfer of the repurchase agreement, to liquidate the collateral; and

(iv) collateral for all repurchase agreements must be held by third parties.

“Person” means any natural person, firm, partnership, association, limited liability company, corporation, company or public body.

“Plans and Specifications” means the plans and specifications for the Facility approved in writing by Bondowner Representative, together with such amendments thereto as are made from time to time in accordance with Section 3.03 of the Bond Loan Agreement.

“Prime Rate” means the prime rate published from time to time in The Wall Street Journal. If the Wall Street Journal ceases to publish Prime Rate, Bondowner Representative shall determine another reasonably equivalent rate.

“Principal Amount” means \$10,000,000, the original principal amount of the Bonds at the Closing Date.

“Principal Corporate Trust Office” means the corporate trust office of the Trustee at 15950 North Dallas Parkway, Suite 550, Dallas, TX 75248, or such other office designated by the Trustee from time to time.

“Proceeds” is defined in Section 1.148-1(b) of the Regulations and generally means any Sale Proceeds and Investment Proceeds of the Bonds.

“Proforma Schedule” means the Proforma Schedule attached to the Bond Loan Agreement as Exhibit F, together with such amendments to that schedule as are made from time to time in accordance with the Bond Loan Agreement.

“Project” means the Project Premises, the Facility and any and all Project Equipment located on or used in connection with the Project Premises.

“Project Debt Service” means all scheduled debt service on the Bonds during the period in question, including all interest and scheduled principal payments.

“Project Engineer” means an engineer retained by the Bondowner Representative to provide consulting services to the Bondowner Representative with respect to the Project.

“Project Equipment” means the property described as “Personal Property” in the Mortgage.

“Project Fund” means the fund created under Section 5.02 of this Indenture.

“Project Premises” means the real property described in Exhibit B to the Bond Loan Agreement, together with the other property and interests in real property described in the Mortgage as the “Real Property.”

“Project Revenues” means all gross revenues and receipts derived by the Borrower from the operation of the Project from any source during the period in question, including, but not limited to, tenant rents, payments received under a Housing Assistance Payments Contract with HUD and all other moneys as may be paid to or on behalf of the Borrower or to which the Borrower may be entitled with respect to this Project, excluding securities deposits but including earnings on the foregoing if the Borrower is entitled to such earnings under the laws of the State.

“Purchaser’s Letter” means a letter in substantially the form of **Exhibit C** to this Indenture executed by the initial Bondholder and any subsequent transferee of the Bonds pursuant to Sections 2.11 and 2.15 of this Indenture.

“Qualified Project Costs” has the meaning set forth in the Tax Exemption Agreement.

“Qualified Project Period” has the meaning set forth in the Regulatory Agreement.

“Rate Conversion Date” means _____, 2020, which date is 18 months from the Closing Date.

“Rating Agency” means S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns.

“Reasonably Required Reserve or Replacement Fund” means any fund described in Section 148(d) of the Code.

“Rebate Analyst” means a Person that is (i) qualified and experienced in the calculation of rebate payments under Section 148 of the Code, (ii) chosen by the Borrower and (iii) engaged for the purpose of determining the amount of required deposits, if any to the Rebate Fund.

“Rebate Fund” means the fund so designated in Section 5.07 of this Indenture.

“Record Date” means with respect to any Payment Date, (a) the fifteenth day of the month (whether or not a Business Day) next preceding such Payment Date or (b) if there is a default in payment of interest due on such Payment Date, a special Record Date for the payment of such defaulted interest shall be established by the Trustee by notice mailed by the Trustee (such notice shall be mailed not less than 15 days preceding the applicable special Record Date to the Holders as set forth on the Bond Register of the Bond Registrar at the close of business on the fifth Business Day next preceding the date of mailing).

“Redemption Account” means the Redemption Account of the Bond Fund.

“Redemption Date” means any date that Bonds are redeemed pursuant to Article III of this Indenture.

“Regulations” means any proposed, temporary, or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement, dated as of the date hereof, among the Borrower, the Issuer and the Trustee, together with any amendments and supplements thereto.

“Related Person” means a “related person” within the meaning of Section 147(a)(2) of the Code.

“Representative” means any Authorized Officer or Authorized Borrower Representative as the case may be.

“Reserved Rights” of the Issuer means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to Section 4.02 of the Bond Loan Agreement, including the Issuer’s Fees; (c) all rights of the Issuer to receive any Rebate Amount (as defined in the Tax Exemption Agreement) required to be rebated to the United States of America under the Code in connection with the Bonds, as described in the Tax Exemption Agreement; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the Bond Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Bond Loan Agreement, in the Tax Exemption Agreement and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, as applicable, regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act, this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, or the Note, (4) no liability of the Issuer to third parties, and (5) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or

modification of this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, and the Note; (h) any and all limitations of the Issuer's liability and the Issuer's disclaimers of warranties set forth in this Indenture, the Regulatory Agreement, the Tax Exemption Agreement or the Bond Loan Agreement, and the Issuer's right to inspect and audit the books, records and permits of the Borrower and the Project; and (i) any and all rights under the Bond Loan Agreement and the Regulatory Agreement required for the Issuer to enforce or to comply with Section 2306.186 of the Texas Government Code.

"Responsible Agent" means any person duly authorized and designated by the Trustee, the Bond Registrar and the Paying Agent to act on its behalf in carrying out the applicable duties and powers of such entity as set forth in this Indenture; any action required by the Trustee, the Bond Registrar and the Paying Agent under this Indenture may be taken by a Responsible Agent.

"Revenue Fund" means the fund created by Section 5.03 of this Indenture.

"S&P" means S&P Global Ratings, and its successors and assigns, or if it is dissolved or no longer assigns credit ratings, then any other nationally recognized statistical rating agency, designated by the Issuer, that assigns credit ratings

"Sale Proceeds" is defined in Section 1.148-1 of the Regulations and generally consists of any amounts actually or constructively received from the sale (or other disposition) of any Bond, including amounts used to pay underwriters' discount or compensation and accrued interest other than pre issuance accrued interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any Bond and that is described in Section 1.148-4(b)(4) of the Regulations.

"Special Limited Partner" means HCP-SLP, LLC, a _____.

"State" means the State of Texas.

"Subordinate Mortgage" means the SWAP Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of January 1, 2019 from the Borrower for the benefit of the Swap Counterparty as security for the Borrower's obligations under the Swap Agreement.

"Swap Agreement" shall mean (i) that certain ISDA Master Agreement dated _____, the related Schedule thereto, and each Confirmation thereunder, each between Swap Counterparty and Borrower, and (ii) any other interest rate exchange, hedge or similar agreement, entered into in order to hedge or manage the interest payable on all or a portion of the Bonds, whether then existing or to be entered into, between the Borrower and the Swap Counterparty, as such agreements may be amended, supplemented or substituted from time to time.

"Swap Counterparty" shall mean Cedar Rapids Bank and Trust Company and its permitted successors and assigns during the term of the initial Swap Agreement and thereafter any person entering into a Swap Agreement with the Borrower.

"Tax Credits" means the low income housing tax credits allocated to the Project pursuant to Section 42 of the Code.

"Tax Exempt Rate" means (i) during the Construction Term a per annum rate of _____ percent (____%), which rate shall be determined by reference to the 18-month U.S. Dollar ICE Swap Rate (calculated as the average of the 1-year and 2-year U.S. Dollar ICE Swap Rate), plus 1.58%, until the Rate Conversion Date and thereafter a per annum rate equal to the LIBO Rate plus 1.75%, and (ii) during the

Permanent Term, a per annum rate equal to the LIBO Rate plus two percent (2.0%), in either case not to exceed the Maximum Rate.

“Tax Exemption Agreement” means that certain Tax Exemption Certificate and Agreement dated as of the date hereof, by and among Issuer, the Borrower and the Trustee, as in effect on the Closing Date and as it may thereafter be amended or supplemented or restated in accordance with its terms.

“Taxable Rate” means a per annum rate equal to the Default Rate during the Construction Term and a per annum rate equal to the LIBO Rate plus two and one-half percent (2.5%) per annum during the Permanent Term, in either case not to exceed the Maximum Rate.

“Treasury” means the United States Department of the Treasury, and any successor to its functions.

“Treasury Regulations” means all proposed, temporary or final federal income tax regulations issued or amended with respect to the Code by the Treasury or Internal Revenue Service.

“Trustee” means Wilmington Trust, National Association, and any co-trustee or successor trustee appointed, qualified and then acting as such under the provisions of this Indenture.

“Trust Estate” means the Trust Estate as defined and set forth in the Granting Clauses hereof.

“U.S. Dollar ICE Swap Rate” means for any day the rate for a U.S. dollar interest rate swap that appears on Reuters page “ICESWAP1” (or any successor page) at approximately 11:15 a.m., New York City time. If the U.S. Dollar ICE Swap Rate is not available, then the rate shall be otherwise independently determined by Bondholder Representative from an alternate, substantially similar independent source available to Bondholder Representative or shall be calculated by Bondholder Representative by a substantially similar methodology.

Section 1.02. Rules of Interpretation. This Indenture shall be governed by and construed in accordance with the laws and judicial decisions of the State, except as they may be preempted by federal rules, regulations and laws applicable to the Issuer.

(a) The words “herein” and “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Indenture as a whole rather than to any particular section or subdivision of this Indenture.

(b) References in this Indenture to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Indenture as originally executed.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and all computations provided for herein shall be made in accordance with generally accepted accounting principles consistently applied and applied on the same basis as in prior years.

(d) The Table of Contents and titles of articles and sections herein are for convenience of reference only and are not a part of this Indenture and shall not deny or limit the provisions hereof.

(e) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(f) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Indenture.

(g) Any opinion of counsel called for herein shall be a written opinion of such counsel.

(h) References to the Bonds as “tax-exempt” or to the “tax-exempt status of the Bonds” are to the excludability of interest on the Bonds from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

ARTICLE II

THE BONDS

Section 2.01. Authorized Amount and Form of Bonds. The Bonds secured by this Indenture shall be issued in fully registered form without coupons and in substantially the form set forth herein with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and in accordance with the further provisions of this Article II. The aggregate principal amount of the Bonds that shall be initially issued hereunder shall be \$10,000,000, unless duplicate Bonds are issued as provided in Section 2.07. The Bonds, together with the Certificate of Authentication, the form of Assignment, the principal log and the registration information thereon, shall be in substantially the form found at **Exhibit B**.

Section 2.02. Issuance of Bonds. The Bonds shall:

- (a) be dated as of the Dated Date;
- (b) be initially issued and delivered as a single fully registered Bond without coupons;
- (c) be initially issued in a single series designated as the Series 2019 Bonds;
- (d) be numbered from R-1 upwards in chronological order of delivery, except the Initial Bonds (as described in Section 2.04 hereof), which shall be numbered I-1;
- (e) mature on the date set forth below;

<u>Maturity Date</u>	<u>Maximum Principal Amount</u>
January 31, 2036	\$10,000,000

(f) bear interest on the Principal Amount from time to time at a per annum rate equal to the Applicable Rate payable monthly in arrears on each Payment Date (immediately upon receipt of funds sufficient to make such payment), such interest to accrue from the Dated Date, or, in the case of transfer or exchange, from the most recent Payment Date to which interest has been paid or provided for under this Indenture to maturity or prior redemption; if a payment of defaulted interest is to be made, the Trustee shall establish the time of such payment and shall establish the associated special Record Date therefor as provided in the definition of “Record Date”;

(g) pay principal in accordance with the Amortization Schedule;

(h) be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, at the Operations Office of the Trustee or Paying Agent, provided that unless otherwise notified by the Bondowner Representative in writing, payments of principal and interest shall be paid on each Payment Date to the Holders of such Bond on the applicable Record Date (the "Record Date Holder" as defined in the form of Bonds set forth in **Exhibit B** hereto) via wire transfer in immediately available funds to a designated bank account maintained by the Holder at any bank in the United States, such instructions to be delivered not less than 15 days before the Payment Date. The Trustee shall pay all amounts payable by the Trustee hereunder to such Holder by transfer directly to said designated bank in accordance with the provisions of any such instrument, provided that if such amount represents a payment of the principal of any Bonds, such Bond shall have been presented to the Trustee. At the written request of the Bondowner Representative (delivered not less than 15 days before the Payment Date) payments of principal and interest on the Bonds will be payable by check mailed by first class mail by the Trustee to the Record Date Holder of such Bond on the applicable Record Date at the last address thereof as shown in the Bond Register on the applicable Record Date, and principal of and any premium on the Bonds shall be payable at the Principal Corporate Trust Office of the Trustee;

(i) be subject to redemption upon the terms and conditions and at the redemption prices specified in Article III hereof;

(j) accrue interest on the outstanding principal amount from time to time calculated on the basis of a 360 day year for the actual number of days elapsed. The Bondowner Representative shall, as servicer of the Bond Loan, calculate the Applicable Rate and the amount of principal and interest due on the Bonds and submit such calculations to the Trustee in writing, with a copy to the Issuer and the Borrower, (i) 7 days prior to each Payment Date, and (ii) within 15 days following any partial redemption of the Bonds. The Trustee shall, absent manifest error, accept such calculations.

Notwithstanding anything contained herein to the contrary, during any period of time that the Note bears interest at the Default Rate, the Bonds shall also bear interest at the Default Rate, and at any time the Note bears interest at the Taxable Rate, the Bonds shall bear interest at the Taxable Rate.

Notwithstanding the foregoing, if the date for payment of the principal of, premium, if any, or interest on the Bonds shall be a day which is not a Business Day, then the date for such payment shall be the next succeeding day which is a Business Day, and payment on such later date shall have the same force and effect as if made on the nominal date of payment. Furthermore, the Trustee shall, in all circumstances, pass through to the Bondowners (on a pro rata basis), as soon as practicable following receipt by the Trustee, all amounts received by the Trustee in payment of principal of, premium, if any, and interest on the Bonds.

All payments so made shall be valid and effective to satisfy and discharge the liability upon the Bonds. Notwithstanding the foregoing, all payments of principal of, premium, if any, and interest on the Bonds payable on the Maturity Date or any date of redemption shall only be payable upon presentation of the Bonds at the Operations Office of the Trustee so as to permit an appropriate notation to be made on Schedule A thereto. The Bondholder instructs the Trustee to hold the Bonds on behalf of the Bondholder to facilitate payments pursuant hereto.

Section 2.03. Execution. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of an Authorized Officer of the Issuer and attested by the manual or facsimile signature of its Secretary under the official seal, or a facsimile of the seal, of the Issuer (whether affixed, imprinted, impressed, engraved or otherwise reproduced). Any facsimile signatures shall have the same force and effect as if the Authorized Officer and Secretary had manually signed and attested the Bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and

sufficient for all purposes as if such officer had remained in office until delivery. Any reproduction of the official seal of the Issuer on any Bond shall have the same force and effect as if the official seal of the Issuer had been manually impressed on such Bond.

Section 2.04. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until such Bond has been duly registered by the Comptroller of Public Accounts of the State of Texas by the execution of a registration certificate of the Comptroller of Public Accounts of the State of Texas substantially in the form set forth in **Exhibit B** to this Indenture and appearing on the Initial Bond, as hereinafter described, or authenticated by the Trustee by the execution of the certificate of authentication substantially in the form set forth in **Exhibit B** to this Indenture and appearing on any Bond other than the Initial Bond. The Initial Bond shall be the Bond delivered to the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas. The registration certificate of the Comptroller of Public Accounts of the State of Texas shall be manually executed by said Comptroller (or a deputy designated in writing to act for said Comptroller) and the seal of the Comptroller of Public Accounts of the State of Texas shall be impressed, or placed in facsimile, on the registration certificate. The execution of the registration certificate shall be conclusive evidence that the Initial Bond has been duly issued under this Indenture and that the holder thereof is entitled to the benefits of this Indenture. Upon receipt of the Initial Bond by the Issuer, with the registration certificate thereon so executed and sealed as aforesaid, the Issuer shall deliver such Initial Bond to the Trustee. The Trustee, upon satisfaction of the conditions specified in Section 2.05 hereof, shall cancel the Initial Bond and shall deliver the definitive Bonds to the initial purchasers thereof or their designee, in substitution of the Initial Bond. The certificate of authentication of the Trustee appearing on any Bond shall be deemed to have been duly executed by the Trustee if manually signed by an authorized signatory of the Trustee. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized representative of the Trustee, but it shall not be necessary that the same person sign the certificates of authentication on all of the Bonds.

Section 2.05. Conditions Precedent to the Delivery of Bonds. Upon the execution and delivery of this Indenture, the Bond Purchase Agreement and the Forward Bond Purchase Agreement, the Issuer shall execute and deliver to the Bond Registrar, and the Bond Registrar shall authenticate, the definitive Bond and shall deliver the Bond to or upon the order of the initial purchaser thereof at such time or times as may be directed by the Issuer after the Trustee has received the following:

(a) a certified copy of the bond resolution adopted by the governing body of the Issuer, authorizing the execution and delivery on behalf of the Issuer of the Bonds and the bond documents to which it is a party and related matters;

(b) executed original counterparts of the documents specifically set forth in the definitions of Bond Loan Documents and the Bond Documents, the Guaranty, the Assignment, and the Issuer's assignment of the Note, without recourse, to the order of the Trustee;

(c) a written request and authorization by an Authorized Officer of the Issuer to the Trustee to (i) authenticate and deliver the Bonds in such specified denomination as permitted herein to the initial purchaser or purchasers therein identified upon payment to the Trustee, but for the account of the Issuer, of a specified sum of money, (ii) pay certain costs associated with the issuance of the Bonds in accordance with Section 5.10 hereof, and (iii) authorize the execution of an investment agreement, if any, related to the Bonds;

(d) receipt from the purchaser of the aggregate purchase price of the Bonds;

- Fund;
- (e) receipt from the Borrower of the amount to be deposited into the Costs of Issuance Fund;
 - (f) the Initial Bond, registered by the Comptroller of Public Accounts of the State of Texas;
 - (g) an approving opinion of the Attorney General of the State of Texas;
 - (h) any other documents or opinions which the Trustee, the Issuer or Bond Counsel may require, which requirement shall be deemed to be satisfied upon the delivery of the opinion of Bond Counsel on the Closing Date.

Furthermore, no funds shall be disbursed to the Borrower from the Project Fund until the Trustee has received:

- (i) a commitment by a title insurance company, in form and content approved by the Bondowner Representative, to issue a title insurance policy approved by the Bondowner Representative; and
- (j) a copy of the instruction letter delivered to and accepted by the title company in connection with the closing of the Bonds by the Borrower and consented to by the Bondowner Representative.

Section 2.06. [Reserved].

Section 2.07. Mutilated, Lost or Destroyed Bond. In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed, and the Bond Registrar shall authenticate and deliver, a new Bond of like amount, Maturity Date and tenor, but bearing a number not contemporaneously outstanding, in exchange and substitution for and upon cancellation of any such mutilated Bond, or in lieu of and in substitution for any such Bond destroyed or lost, upon the Holder's paying the reasonable expenses and charges of the Bond Registrar and the Issuer and, in the case of a Bond destroyed or lost, the Holder's filing with the Bond Registrar of evidence satisfactory to the Bond Registrar and the Trustee that such Bond was destroyed or lost, and of the Holder's ownership thereof, and furnishing the Issuer, the Trustee and the Bond Registrar with indemnity satisfactory to them. If the mutilated, destroyed or lost Bonds has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

Section 2.08. [Reserved].

Section 2.09. Ownership of Bonds. The Issuer, the Trustee, the Bond Registrar and Paying Agent may deem and treat the Holder of any Bond, whether or not such Bond shall be overdue, as the absolute owner of such Bond for the purpose of receiving payment thereof and for all other purposes whatsoever, and the Issuer (or any agent thereof), the Trustee, the Bond Registrar and the Paying Agent shall not be affected by any notice to the contrary.

Section 2.10. [Reserved].

Section 2.11. Registration, Transfer and Exchange of Registered Bonds.

- (a) The Trustee shall, at the expense of the Borrower, prepare, execute and authenticate a fully registered Bond, shall cause to be kept at the Principal Corporate Trust Office of the

Bond Registrar a Bond Register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the Trustee shall provide for the registration of each Bond and the registration of transfers of each Bond. The Bond Register shall contain a record of every Bond, including bond number and principal amount at any time authenticated hereunder, together with the name and address of the Holder thereof, the date of authentication, the date of transfer or payment, and such other matters as are appropriate for the Bond Register in the estimation of the Bond Registrar and the Trustee.

(b) The transfer of each Bond is subject to registration by the Holder thereof only upon compliance with the conditions for registration of transfer imposed on the Holder under this Section 2.11 and under Section 2.15 hereof. Upon surrender of the Bonds at the Operations Office of the Bond Registrar, the Issuer shall execute (if necessary), and the Bond Registrar shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), a new Bond of any Authorized Denomination of a like aggregate principal amount, having the same stated maturity, tenor and interest rate.

(c) At the option of the Holder, the Bonds may be exchanged for other Bonds of a like aggregate principal amount, tenor, and stated maturity, upon surrender of the Bonds to be exchanged at the Operations Office of the Bond Registrar, and upon payment, if the Issuer shall so require, of the taxes, if any, hereinafter referred to. Whenever a Bond is so surrendered for exchange, the Issuer shall execute (if necessary), and the Bond Registrar shall authenticate and deliver, the Bonds which the Holder making the exchange is entitled to receive.

(d) Each Bond delivered in exchange for or upon transfer of a Bond shall be a valid special obligation of the Issuer evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered for such exchange or transfer.

(e) Registration of the transfer of each Bond may be made on the Bond Register by the Holder in person or by the Holder’s attorney duly authorized in writing. Each Bond presented or surrendered for registration of transfer or exchange shall (i) be accompanied by evidence of compliance with the provisions of Section 2.15 of this Indenture, (ii) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in the form printed on the Bonds or in another form satisfactory to the Bond Registrar, duly executed and with guaranty of signature of the Holder thereof or his, her or its attorney duly authorized in writing and (iii) include written instructions as to the details of the transfer of the Bonds.

(f) No service charge shall be made to the Holder for any registration, transfer or exchange, but the Bond Registrar and Issuer may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of the Bonds, other than exchanges expressly provided in this Indenture to be made without expense or without charge to Bondholders, and any legal or unusual costs of transfers and lost Bonds.

(g) The Bond Registrar shall not be required (i) to transfer or exchange any Bonds during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption or purchase of the Bonds under this Indenture and ending at the close of business on the day of such mailing or (ii) to transfer or exchange the Bonds so selected for redemption or purchase in whole or in part.

Section 2.12. Nonpresentment of the Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, if funds sufficient to pay such Bond shall have been paid to the Trustee (or the Paying Agent (if any)) for the benefit of the registered owner thereof, all liability of the Issuer to the registered owner thereof for the payment of such Bond shall forthwith cease, terminate and

be completely discharged, and thereupon it shall be the duty of the Trustee or other Paying Agent to hold such fund or funds, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. Any moneys still held by the Trustee (or other Paying Agent, if any) after (i) having given written notice to the Bondowner Representative and (ii) three years from the date on which the Bond with respect to which such amount was paid to the Trustee or other Paying Agent, shall, if and to the extent permitted by law, shall be paid to the State of Texas. The obligation of the Trustee under this Section 2.12 to pay any such amounts shall be subject to any provisions of law applicable to the Trustee or to such amounts providing other requirements for disposition or escheat of unclaimed property, including without limitation Title 6 of the Texas Property Code.

Section 2.13. [Reserved].

Section 2.14. Destruction of Bonds. Whenever any Outstanding Bond shall be delivered to the Bond Registrar or the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount and interest represented thereby or for replacement pursuant to Section 2.07 or transfer pursuant to Section 2.11, such Bond shall be canceled by the Bond Registrar and counterparts of a certificate of cancellation evidencing such cancellation shall be furnished by the Bond Registrar upon request to the Issuer and, if appropriate, the Trustee.

Section 2.15. Restrictions on Transfer. Except for the transfer of any Bond to any subsidiary or affiliate of the Bank (or any successor to the Bank or any subsidiary or affiliate, whether by merger, acquisition of assets or otherwise), the Bonds may be transferred, only in whole (unless otherwise approved in writing by the Issuer), to a new Bondholder only upon receipt by the Bond Registrar, the Issuer and the Trustee of evidence that the Bond is being transferred to a “qualified institutional buyer” (as defined in Rule 144A promulgated under the Securities Act of 1933). The Bond Registrar shall not register any transfer or exchange of the Bonds unless such Bondholder’s prospective transferee delivers to the Trustee a Purchaser’s Letter and obtains the written consent of the Issuer to such transfer; provided, a transfer of the Bonds from the Bondholder Representative to the Permanent Lender shall not require Issuer consent. The Trustee shall be entitled to rely, without any further inquiry, on any Purchaser’s Letter delivered to it and shall be fully protected in registering any transfer or exchange of the Bonds in reliance on any such Purchaser’s Letter which appears on its face to be correct and of which the Trustee has no actual knowledge otherwise. Any such Holder desiring to effect such transfer shall agree to indemnify the Issuer and Trustee from and against any and all liability, cost or expense (including attorneys’ fees) that may result if the transfer is not so exempt or is not made in accordance with such federal and state laws.

ARTICLE III

REDEMPTION OF THE BONDS BEFORE MATURITY

Section 3.01. Redemption Provisions. Subject to the provisions of Sections 3.02 and 3.04, the Bonds, or a portion thereof, are subject to redemption as follows:

(a) **Extraordinary Redemption.**

(i) The Bonds are subject to mandatory redemption, in whole or in part, on any Business Day, in the event and to the extent the Trustee receives funds from the Borrower representing a mandatory prepayment of principal under the Note, at a redemption price equal to the principal amount thereof plus accrued interest and plus any premium remitted therewith as required by the Note.

(ii) At the option of the Bondowner Representative, the Bonds are subject to redemption in whole, on any Business Day, in the event the Trustee receives written notice of a Determination of Taxability and the Borrower's failure to give written notice to the Trustee within 15 days of a Determination of Taxability that the Bonds will thereafter bear interest at the Taxable Rate, at a redemption price equal to the principal amount thereof, plus accrued interest thereon.

(iii) The Bonds are subject to mandatory redemption, in whole or in part, on any Business Day prior to, in amounts sufficient to reduce the aggregate principal amount of Outstanding Bonds to the lesser of \$[7,950,000] or the amount necessary to achieve compliance for the Conversion Conditions set forth in the Forward Bond Purchase Agreement.

(b) **Optional Redemption.**

(i) The Bonds (and the Note) may not be redeemed in whole or in part until _____, 2020, which date is 12 months from the Closing Date, and thereafter the Bonds are subject to redemption at the option of the Issuer, at the direction of the Borrower, in whole or in part on the first day of any month, in the event and to the extent the Trustee receives funds representing an optional prepayment of the principal of the Note, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date and plus any premium remitted therewith as required by the Note.

(ii) (ii) At the option of the Permanent Lender, the Bonds are subject to optional redemption in whole or in part on the first Business Day 15 years from the Conversion Date.

(c) **Reserved.**

(d) **Reserved.**

(e) **Reserved.**

(f) **Mandatory Redemption Upon Bond Loan Agreement or Other Bond Loan Document Default.** The Bonds are subject to mandatory redemption in whole upon the occurrence of an event of default under the Bond Loan Agreement, any other Bond Loan Document or the Construction Disbursement Agreement at the direction of the Bondowner Representative at a redemption price equal to the principal amount of the Bonds then outstanding, plus accrued interest thereon to the date of redemption.

If the Bonds or any portion thereof are redeemed, the Trustee shall apply the principal amount of the Bonds redeemed in such manner as the Bondowner Representative (with the concurrence of the Trustee) determines so as to as nearly as possible maintain level principal and interest payments on the Bonds to the Maturity Date.

Section 3.02. Notice of Redemption. To effect the redemption of the Bonds or a portion thereof under Section 3.01, the Trustee shall promptly give notice within the time, in the manner and with the effect provided by this Section 3.02. No advance notice of redemption shall be required. Notice of redemption shall be provided to the Bondowner within three Business Days upon receipt by the Trustee of funds to be used for such redemption except in the case of a redemption pursuant to Section 3.01(a)(ii) or 3.01(f), in which case notice of redemption shall be given upon the Trustee's receipt of written notice of the occurrence of a Determination of Taxability or receipt by the Trustee of notice, or the Trustee's actual knowledge, of

a continuing default under the Bond Loan Agreement or the Mortgage, as appropriate. No defect in or failure to give notice shall affect the validity of the proceedings for redemption of the Bonds. Such notice, which shall be prepared by the Trustee at the expense of the Borrower, shall state the subsection under Section 3.01 pursuant to which the Bonds are being called for redemption and shall specify the date on which and the place where they shall be presented for redemption. Except as specifically provided in this Indenture and provided sufficient funds are on deposit with the Trustee with respect to such redemption, the portion of the Bonds thus called for redemption shall cease to bear interest from and after the specified redemption and the Bondholder shall have no further rights with respect to the redeemed portion of the Bonds or under this Indenture except to receive the redemption price of such Bond.

Section 3.03. Cancellation. Subject to the provisions of Section 2.12, the portion of the Bonds which has been redeemed shall be canceled by the Trustee as provided in Section 2.14 and shall not be reissued. The Trustee shall note any redemption of the Bonds in part in its record and on the principal log maintained by the Trustee at its Operations Office in the form appended to the Bonds.

Section 3.04. Method of Redemption.

(a) The Trustee shall redeem the Bonds or a portion thereof hereunder (except in the case of Section 3.01(a)(ii) or (f)) only if it has received immediately available funds sufficient for such purpose on or prior to the notice date.

(b) If the Bonds are redeemed pursuant to subsection 3.01(a)(ii) or 3.01(f) hereof, payment of the redemption price shall be deemed made by the Trustee's and the Issuer's absolute assignment to the Bondowner of all right, title and interest of the Issuer and the Trustee in and to the Bond Loan Documents. Such assignment shall constitute full and complete satisfaction of all obligations of the Issuer to the Bondholder hereunder.

(c) If the Bonds are redeemed only in part, such Bonds shall be surrendered to the Trustee and the Trustee shall make an appropriate notation on the principal log maintained at its Operations Office in the form attached to the Bonds certificate indicating the portion of the Bonds redeemed. The Trustee shall inform the Bondowner in writing of the current outstanding principal amount of the Bonds upon receipt of a written request from any Bondowner.

Section 3.05. Revisions to Amortization Schedule. Upon (a) any partial redemption of the Bonds or (b) any adjustment of the Applicable Rate or (c) a correction or change in the assumed Conversion Date, the Permanent Lender will provide to the Trustee, the Issuer and the Borrower a revised Amortization Schedule which shall provide for monthly payments on the remaining Principal Amount of the Bonds at the Applicable Rate over the remainder of the original Permanent Term (assuming a forty (40) year amortization), in which event the payment obligations with respect to the Principal Amount of the Bonds and the corresponding payment obligations of the Borrower under the Note and the Loan Agreement shall be so modified without further action on the part of the Issuer, the Trustee or the Borrower or amendment to this Indenture, the Bonds or the Bond Documents.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. Payment of Principal, Premium and Interest. Subject to the provisions of Section 4.09 hereof, and solely from the moneys derived from the Bond Loan Agreement (other than to the extent payable (a) from Proceeds of the Bonds, temporary investments, or amounts recovered by the Trustee under the Mortgage or (b) as provided in Section 3.04(b) hereof), the Issuer will duly and punctually pay

the principal of, premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and this Indenture. Moneys derived from the Bond Loan Agreement include all moneys derived from the Granting Clauses set forth herein, including, but not limited to, the amounts deposited in the Funds (excluding (a) amounts held in Rebate Fund and the Rebate Amount whether or not deposited in the Rebate Fund and (b) the Costs of Issuance Fund unless and to the extent funded with Proceeds of the Bonds) to the extent hereof and in the manner provided in Article V hereof. Nothing in the Bonds or in this Indenture shall be considered as assigning or pledging funds or assets of the Issuer other than those covered by the Granting Clauses set forth herein.

Section 4.02. Representations and Covenants.

(a) The Issuer represents and covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its governing body pertaining thereto; that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Bonds authorized hereby, to execute this Indenture, to loan the Sale Proceeds of the Bonds to the Borrower and to assign and pledge the payments from the Bond Loan Agreement in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the Bonds in the hands of the Holders thereof are and will be valid and enforceable obligations of the Issuer according to the terms thereof. The Issuer further covenants that it will not take any action or fail to take any action which, as advised by Bond Counsel, would adversely affect the excludability of interest on the Bonds from gross income for federal tax purposes.

(b) The Trustee covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Indenture, and in every Bond executed, authenticated and delivered hereunder; that it is duly organized, validly existing, in good standing and possesses all licenses and authorizations necessary to enter into this Indenture; that it has full power and authority to enter into this Indenture and the transactions contemplated thereby; that this Indenture has been duly executed and delivered by it; that this Indenture constitutes a legal, valid, binding and enforceable obligation of the Trustee (subject to bankruptcy, insolvency or creditor rights laws generally and principles of equity generally) without offset, defense or counterclaim; that the execution, delivery and performance of this Indenture by the Trustee will not cause or constitute, including due notice or lapse of time or both, a default under or conflict with organizational documents of the Trustee or other agreements to which the Trustee is a party or otherwise materially or adversely affect performance of duties of the Trustee; that the execution of this Indenture by the Trustee will not violate any law, regulation, order or decree of any governmental authority; that all consents, approvals, authorizations, orders or filings of or with any court or governmental agency or body, if any, required for the execution, delivery and performance of this Indenture by the Trustee have been obtained or made; and that, to the best of its knowledge, there is no pending action, suit, proceeding, arbitration or governmental investigation challenging the authority of the Trustee to perform its obligations under this Indenture.

Section 4.03. Instruments of Further Assurance. The Issuer covenants that it has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby its interest in the Bond Loan Agreement or any part thereof is now or at any time hereafter will be impaired, changed or encumbered in any manner whatsoever, except as may be expressly permitted herein or in the Bond Loan Agreement or as required by law; and that, at the expense of the Borrower, it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the sums assigned and pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds.

Section 4.04. Filing of Continuation Statements. The Trustee shall file all such continuation statements as are necessary to preserve the first-lien perfected security interest of the Trustee in and to the Trust Estate.

Section 4.05. Books and Records. The Trustee covenants that so long as any portion of the Bonds issued hereunder and secured by this Indenture shall be unpaid, the Trustee will keep proper books or records and accounts, in which full, true and correct entries will be made of all its financial dealings or transactions in relation to the Project and the payments derived from the Bond Loan Agreement, this Indenture and the Mortgage. At reasonable times and under reasonable regulations established by the Trustee, such books shall be open to the inspection of the Holder or the Issuer, and such accountants or other agencies as the Holder or the Issuer may from time to time designate in writing to the Trustee.

Section 4.06. Bondholder's Access to Bond Register. At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register or a copy thereof may be inspected and copied by the Issuer, the Trustee or the Holder (or its designated representative, including the Bondowner Representative), such authority of any such designated representative to be evidenced to the reasonable satisfaction of the Bond Registrar. Except as otherwise may be provided by law, the Bond Register shall not be deemed a public record and shall not be made available for inspection by the public, unless and until notice to the contrary is given to the Bond Registrar by the Issuer.

Section 4.07. Rights Under Bond Loan Agreement. The Bond Loan Agreement sets forth covenants and obligations of the Borrower, and reference is hereby made to the same for a detailed statement of said covenants and obligations. The Issuer agrees to cooperate in the enforcement of all covenants and obligations of the Borrower under the Bond Loan Agreement and agrees that the Trustee and the Bondowner Representative may enforce all rights of the Issuer (other than Reserved Rights) and all obligations of the Borrower under and pursuant to the Bond Loan Agreement in their respective names and on behalf of the Holder, whether or not the Issuer has undertaken to enforce such rights and obligations.

Section 4.08. Rights Under Mortgage.

(a) The Issuer acknowledges that it has assigned its interest in and to the Mortgage and the Note to the Trustee under this Indenture and that such instrument further secures payment of the Bond Loan, interest thereon and amounts due under certain other Bond Loan Documents, and reference is hereby made to the same for a detailed statement of the obligations of the parties thereto.

(b) Subject to the terms of this Indenture and of the Mortgage and the Regulatory Agreement, until the occurrence of an Event of Default under the Bond Loan Agreement, the Borrower shall be permitted to possess, use and enjoy the Mortgaged Property and to receive and use the issues and profits of the Mortgaged Property.

Section 4.09. Limitations on Liability. THE BONDS, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE NOT GENERAL OBLIGATIONS OF THE ISSUER, BUT ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND WILL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE (EXCEPT TO THE EXTENT PAID OUT OF MONEYS ATTRIBUTABLE TO PROCEEDS OF THE BONDS OR THE INCOME FROM THE TEMPORARY INVESTMENT THEREOF), AND ARE AND WILL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME MAY BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED

OTHERWISE IN THIS INDENTURE AND IN THE LOAN AGREEMENT. THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND REDEMPTION PREMIUM, IF ANY, DO NOT NOW AND WILL NEVER CONSTITUTE A DEBT OR AN OBLIGATION OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF WILL BE LIABLE THEREFOR. THE BONDS ARE NOT AND DO NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY OTHER FEDERAL GOVERNMENTAL AGENCY AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES. The foregoing statement of limitation shall appear on the face of each Bond.

Section 4.10. Request and Indemnification. If any consent or other action on the part of the Issuer is required in this or any other document, the Issuer shall have no obligation to act unless first requested to do so, and the Issuer shall have no obligation to expend time or money or to otherwise incur any liability unless indemnity satisfactory to the Issuer has been furnished to it.

Section 4.11. Tax Covenants and Representations.

(a) **Issuer's Covenants.** The Issuer represents, covenants, and agrees that:

(i) The Issuer will comply with all applicable requirements of the Code that are necessary to preserve the excludability from gross income of interest on the Bonds for federal income tax purposes, all as set forth in the Tax Exemption Agreement.

(ii) The Issuer will not take any action inconsistent with its expectations stated in the Tax Exemption Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(b) **Trustee's Covenants.** The Trustee represents, covenants and agrees that:

(i) The Trustee will invest funds held under this Indenture in accordance with the terms of this Indenture, the Tax Exemption Agreement and the written instructions of the Borrower.

(ii) The Trustee will not take any action inconsistent with its obligations expressly stated in the Tax Exemption Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

ARTICLE V

FUNDS AND ACCOUNTS

Section 5.01. Trust Funds Pledged and Assigned to the Trustee. All payments, revenues and income received by the Issuer under the Bond Loan Agreement or the Tax Exemption Agreement representing payments of principal, interest and premium, if any; deposits made by Borrower pursuant to the tax and insurance reserves pursuant to the Mortgage; and the fees and expenses of the Issuer, the Trustee and the Rebate Analyst and pledged and assigned by this Indenture to the Trustee, together with the balance

of the Trust Estate, are to be paid directly to the Trustee (except as otherwise provided in the Bond Loan Agreement) and, subject to the provisions of Section 5.06 of this Indenture, deposited by it in the Funds and accounts described in this Article V and held in trust for the purposes set forth herein. Moneys on deposit in the Funds and accounts described in this Article V shall be held by the Trustee in trust, and pending application in accordance with the provisions of this Article V shall be subject to a lien and charge in favor of the Bondholder (other than amounts in the Rebate Fund) until applied as hereinafter provided. Funds held by or on behalf of the Bondowner Representative under the Bond Loan Agreement or any other Bond Loan Document are hereby pledged and assigned by the Issuer to the Trustee for the benefit of the Bondholder. The Trustee shall at all times maintain accurate records of deposits into such Funds held by the Trustee and the sources and timing of their deposit. The Trustee may open additional accounts as necessary for the administration of the Trust Estate to provide accurate recordkeeping.

Each Fund and account shall constitute a segregated trust account or accounts maintained with the corporate trust department of the Trustee, shall be established in the name of the Trustee, bearing the designation provided below with a qualifier indicating such Fund is held with respect to the Bonds. The Trustee shall not deposit into such Funds and accounts any moneys other than as provided in this Indenture or the Bond Loan Agreement.

Section 5.02. Project Fund; Disbursement of Project Funds.

(a) A special trust fund is hereby created and designated the "Project Fund." Sale Proceeds of the Bonds received from the Bondowner in an amount of \$ _____ shall be deposited with the Trustee in the Project Fund.

(b) No moneys shall be disbursed from the Project Fund until the Trustee shall have received delivery of the items contained in Section 2.05(i) and (j) hereof.

(c) Upon satisfaction of the requirements of this Section 5.02 and receipt from the Borrower (as forwarded by the Bondowner Representative upon its approval of the same) of (i) a written requisition in the form of **Exhibit A** hereto (each a "Requisition"), which Requisition shall include Borrower's certification that, following payments of the amounts requested by the Requisition, not less than 95% of amounts paid from Net Proceeds of the Bonds will have been expended for Qualified Project Costs that have not previously been paid or reimbursed and (ii) written consents to such disbursement by the Bondowner Representative, the Trustee shall promptly disburse all amounts requested in such Requisition to the Borrower from funds in the Project Fund by deposit into a designated account of the Borrower located at the Bondowner Representative, unless otherwise specified by the Borrower and approved by the Bondowner Representative in the Requisition.

(d) Neither the Trustee nor the Issuer shall be responsible for the application by the Borrower of moneys disbursed to the Borrower or its designees (if any money is disbursed thereto) in accordance with this Section 5.02.

(e) All Requisitions and all other statements, orders, certifications and approvals received by the Trustee, as required by this Article V as conditions of payment from the Project Fund, may be conclusively relied upon by the Trustee, and shall be retained by the Trustee, subject at all reasonable times to examination by the Borrower (so long as the Bond Loan Agreement shall remain in force and effect), the Issuer, the Bondowner Representative and the agents and representatives thereof.

(f) All costs incurred in connection with the requisition and disbursement of funds from the Project Fund, including but not limited to the cost of the Project Engineer and updates to the title policy, shall be paid by the Borrower.

(g) Moneys held in the Project Fund on the Conversion Date shall be used to redeem the Bonds as provided in Section 3.01(a)(iii) of this Indenture.

(h) Upon receipt by the Trustee of notice from the Borrower that all Qualified Project Costs have been paid, the Trustee shall transfer any amounts remaining in the Project Fund to the Interest Account of the Bond Fund. Upon such transfer, the Project Fund shall be closed.

Section 5.03. Revenue Fund. A special trust fund is hereby created and designated the Revenue Fund.

(a) All payments made to the Issuer under the provisions of the Bond Loan Agreement and the Note are assigned by the Issuer to the Trustee pursuant to this Indenture for monthly deposit to the Revenue Fund (except as otherwise provided in the Bond Loan Agreement).

(b) Provided no Event of Default has occurred and is continuing under the Bond Loan Agreement, funds on deposit in the Revenue Fund shall be distributed at least monthly (except for distributions to the Issuer under (iv) below, which shall be annually) by the Trustee as follows:

(i) FIRST, to the Bond Fund for deposit first into the Interest Account and then into the Principal Account, an amount equal to the principal of and interest, respectively, to become due on the Bonds on the next Payment Date;

(ii) SECOND, to the Bondowner Representative, as servicer of the Bond Loan, to reimburse it for amounts advanced by it as set forth in the Bond Loan Documents in connection with the servicing of the Bond Loan, plus interest thereon at the Prime Rate, as such amount is certified to the Trustee and the Borrower by the Bondowner Representative;

(iii) THIRD, to the Rebate Fund, the amount calculated as arbitrage rebate due to the United States Department of the Treasury with respect to a particular Bond Year by the Rebate Analyst to the extent specified in writing to the Trustee by the Rebate Analyst; and

(iv) FOURTH, to the Trustee, the amount of its Ordinary Fees and Expenses next due, if any, and then to the Rebate Analyst, the reasonable fees and expenses, if any, as billed and due to it for services hereunder, and then to the Issuer, the Issuer's Fee.

Section 5.04. Bond Fund. A special trust fund is hereby created and designated the "Bond Fund", which shall contain (i) the Interest Account, (ii) the Principal Account, and (iii) the Redemption Account.

(a) **Interest Account.** The Trustee shall deposit to the Interest Account [(i) Sale Proceeds of the Bonds in an amount of \$[] and (ii)] moneys transferred from the Revenue Fund as provided in Section 5.03 of this Indenture. Moneys in the Interest Account shall be used to pay interest on the Bonds when due.

(b) **Principal Account.** The Trustee shall deposit to the Principal Account moneys transferred from the Revenue Fund as provided in Section 5.03 of this Indenture. Moneys in the Principal Account shall be used to pay principal of and sinking fund installments on the Bonds when due.

(c) **Redemption Account.** The Trustee shall deposit to the Redemption Account any funds transferred to or deposited with the Trustee to effect a redemption of the Bonds or any portion thereof (other than mandatory sinking fund redemption) pursuant to Article III hereof. Moneys on deposit in the Redemption Account shall be used for redemption (other than mandatory sinking fund redemption) of the Bonds or a portion thereof pursuant to the provisions of Article III hereof.

Section 5.05. [Reserved].

Section 5.06. Deposit of Funds With Paying Agent.

(a) If the Trustee is not the Paying Agent, the Trustee shall transfer and remit sums from the Bond Fund to the Paying Agent immediately upon deposit therein, from the balance then on hand in the applicable account of the Bond Fund, sufficient to pay all principal, interest and redemption premiums then due on the Bonds. The Paying Agent shall hold in trust for the Holders of such Bonds all sums so transferred to it until paid to such Holders or otherwise disposed of as herein provided.

(b) The Trustee will cause any Paying Agent which is not the Trustee to execute and deliver to it an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 5.06, that such Paying Agent will:

(i) hold all sums held by it for the payment of principal of (and premium, if any) or interest on the Bonds in trust for the benefit of the Holders until such sums shall be paid to such Holders or otherwise disposed of as herein provided; and

(ii) at any time during the continuance of any default in the making of any such payment of principal (and premium, if any) or interest, upon the written request of the Trustee forthwith pay to the Trustee all sums so held in trust by such Paying Agent. The Trustee, acting as Paying Agent, shall also be bound by the terms of the foregoing requirements.

Section 5.07. Rebate Fund.

(a) There is hereby created and established with the Trustee a separate trust fund which shall be designated the "Rebate Fund," which shall be held and applied only as provided in this Section. The Trustee shall maintain the Rebate Fund, for the benefit of all persons who are or have at any time been Bondholders, at all times prior to the final payment to the United States of America of the amounts described in Subsection (c) of this Section 5.07 which fund shall not be part of the Trust Estate. The money deposited to the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust separately and apart from the other funds held under this Indenture and applied solely as provided in Section 14 of the Tax Exemption Agreement, unless there is delivered a Favorable Opinion of Bond Counsel.

Section 5.08. Restoration Fund. The Trustee is hereby granted the authority to create a special trust fund designated the "Restoration Fund" upon the notice by the Borrower of its obtaining a disbursement of Casualty Proceeds to be applied as set forth in Section 2.06 of the Bond Loan Agreement.

Section 5.09. [Reserved].

Section 5.10. Costs of Issuance Fund. A special trust fund is hereby created and designated the "Costs of Issuance Fund." There shall be deposited to the credit of the Costs of Issuance Fund on the Closing Date funds an amount of \$ _____ to be provided by the Borrower and an amount of \$ _____ to

be provided by Sale Proceeds of the Bonds and (ii) if and to the extent approved by the Bondowner Representative, any additional payments made by the Borrower and designated for the Cost of Issuance Fund. The Trustee shall disburse amounts in such fund upon receipt of a completed Requisition to pay a designated third party or reimburse the Borrower for Costs of Issuance. Any amounts remaining in the Costs of Issuance Fund on the ninetieth day following the Closing Date shall be transferred to the Project Fund and the Costs of Issuance Fund shall be closed.

Section 5.11. [Reserved].

Section 5.12. Interest Earned on Funds.

(a) The interest earned from the investment of money held by the Trustee in each of the Funds and accounts created under this Article V (other than the Rebate Fund) shall inure to the benefit of the Borrower and, except as provided in paragraph (b) below, shall be retained in such separate Fund or account and applied as a credit against the payment next due into such separate Fund or account.

(b) During the continuance of an Event of Default or an event which, with notice or lapse of time or both, would become an event of default under the Bond Loan Agreement or any other Bond Loan Document, interest earned from the investment of money in the Funds (other than the Rebate Fund) created under this Article V shall be held in each such Fund and shall not be credited against the payments next due to or from such separate Funds.

Section 5.13. Final Balances. Upon the deposit with the Trustee of moneys sufficient to pay all principal of, premium, if any, and interest on the Bonds, and upon satisfaction of all claims against the Issuer hereunder and under the Bond Loan Documents, including any rebate obligation, all fees, charges and expenses of the Trustee, the Bond Registrar, the Issuer and any Paying Agent which are properly due and payable hereunder, or upon the making of adequate provisions for the payment of such amounts as permitted hereby, all moneys remaining in all Funds, except: (a) moneys necessary to pay principal of, premium, if any, and interest on the Bonds, which moneys shall be held by the Trustee to be paid to the Bondholders; and (b) moneys, if any, set aside pursuant to Section 5.07 hereof, shall be remitted to the Borrower.

ARTICLE VI

INVESTMENTS

Section 6.01. Investments by Trustee.

(a) Moneys held hereunder by the Trustee in the Funds, if permitted by law, shall, as nearly as may be practicable, be invested by the Trustee: (i) unless an Event of Default has occurred and is continuing under the Bond Loan Agreement or other Bond Loan Documents, upon direction of the Borrower given or confirmed in writing (which direction shall specify the amount thereof to be so invested), in Permitted Investments maturing on or before the Business Day prior to the day such amounts are required and in the amounts required to enable the Trustee to make payments due hereunder on the Bonds or otherwise, but in no event longer than 180 days (unless approved in writing by the Bondowner Representative) or (ii) absent written investment direction or if the Trustee has received notice that an Event of Default has occurred and is continuing under the Bond Loan Agreement or the other Bond Loan Documents, in [INSERT NAME OF FUND].

(b) The Trustee shall sell and reduce to cash a sufficient portion of investments under the provisions of this Section 6.01 whenever the cash balance in the Fund for which the investment was

made is insufficient for its current requirements. Securities so purchased as an investment of money shall be held by the Trustee, shall be registered in the name of the Trustee or its nominee if registration is required, and shall be deemed at all times a part of the applicable Fund, and the interest accruing thereon and any profit realized from such investments shall be credited to the Fund from which the investment was made, subject to any transfer to another Fund as herein provided. Any loss resulting from such investment shall be charged to the Fund from which the investment was made, and in the event such loss reduces the amount held in such Fund below the amount required to be deposited in such Fund, the Trustee shall request the Borrower to transfer to the Trustee for deposit into such Fund the amount required to restore amounts in such Fund to the required amount. The Trustee shall not be liable for any loss incurred from the purchase or sale of any investment (except for any such loss resulting from the negligence or willful misconduct of the Trustee or its employees).

(c) The Trustee is hereby authorized to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or dealing as principal for its own account. The Trustee may purchase from or sell to itself, or through any affiliated company, as principal or agent, Permitted Investments herein authorized so long as such purchase or sale is at fair market value.

(d) The Issuer (and the Borrower by its execution of the Bond Loan Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer or the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Issuer and the Borrower will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Issuer and the Borrower periodic cash transaction statements, which include detail for all investment transactions made by the Trustee hereunder. The Trustee, or any of its affiliates, may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

Section 6.02. Computation of Balances in Funds. In computing the assets of any Fund established hereunder, investments and accrued but unpaid interest thereon shall be deemed a part thereof, and, except as otherwise provided in the Tax Exemption Agreement, such investments shall be valued at market value.

Section 6.03. Downgrade of Investments. If any rating of a Permitted Investment during the term of this Indenture falls below such rating that is required pursuant to the definition of “Permitted Investments” then the Trustee shall within two Business Days, or as soon as reasonably practicable thereafter after receiving actual knowledge of the downgrade of the rating of an investment, notify in writing the Borrower of such downgrade. The Borrower shall, within five Business Days of the receipt of the downgrade notice from the Trustee, direct the Trustee to reinvest such downgraded investment in other Permitted Investments.

ARTICLE VII

DISCHARGE OF LIEN

Section 7.01. Payment of Bonds; Satisfaction, Defeasance and Discharge of Bonds and Obligation to Bondholders. Whenever the conditions specified in either clause (i) or clause (ii) of the following subsection (a) and the conditions specified in the following subsections (b), (c), (d) and (e) to the extent applicable, shall exist, namely:

(a) either:

(i) the Bonds shall have become due and payable and all principal or premium, if any, and interest on the Bonds shall have been paid in full, or the Bonds have been cancelled by the Trustee or delivered to the Trustee for cancellation, except for:

(A) Any portion of the Bonds for which funds have theretofore been deposited in trust or segregated and held in trust by the Paying Agent or Trustee and thereafter repaid to the Borrower or discharged from such trust, as provided in Section 2.12; and

(B) Any Bonds alleged to have been destroyed, lost or stolen which have been replaced or paid as provided in Section 2.07, and (1) which, prior to the satisfaction and discharge of this Indenture as hereinafter provided, has not been presented to the Paying Agent or Trustee with a claim of ownership and enforceability by the Holder hereof, or (2) whose enforceability by the Holder thereof has been determined adversely to the Holder by a court of competent jurisdiction or other competent tribunal; or

(ii) the Issuer or the Borrower has deposited or caused to be deposited, as trust funds, with the Trustee cash and/or Permitted Investments of the type described in clause (a)(i) of the definition of that term which do not permit the redemption thereof at the option of the issuer thereof, the principal of, premium, if any, and interest on which when due (or upon the redemption thereof at the option of the holder), will, without reinvestment, provide cash which together with the cash, if any, deposited with the Trustee at the same time, shall be sufficient, to pay and discharge the entire indebtedness on any portion of the Bonds not theretofore cancelled by the Trustee or delivered to the Trustee for cancellation by the payment of interest on and principal (and premium, if any) of the Bonds which have become due and payable or which shall become due at their stated maturity or redemption date, as the case may be (the "Defeasance Collateral"), and which are to be discharged under the provisions hereof, and has made arrangements satisfactory to the Trustee for the giving of notice of redemption, if any, by the Trustee in the name, and at the expense, of the Borrower in the same manner as is provided by Section 3.02 hereof;

(b) the Issuer or Borrower has paid, caused to be paid or made arrangements satisfactory to the Trustee for the payment of all other sums due and payable hereunder, including the Issuer's Fee and any rebate obligation, and under the Bond Loan Documents;

(c) the Borrower has delivered to the Trustee and the Issuer a report of an Independent Accountant stating that the payments to be made on any securities, together with the cash, if any, deposited pursuant to clause (ii) of subsection (a) above will be sufficient to pay when due the principal of, premium, if any, and interest on the Bonds or the portion thereof to be defeased;

(d) if discharge is to be effected under clause (ii) of subsection (a), a Favorable Opinion of Bond Counsel is delivered to the Trustee and the Issuer; and

(e) the Borrower has delivered to the Trustee and the Issuer an opinion of Independent Counsel to the effect that (i) the Defeasance Collateral has been duly and validly assigned and delivered to the Trustee, (ii) the security interest of the Trustee for the benefit of the Bondholders, with respect to Defeasance Collateral, is a first priority perfected security interest as security for payment of the Bonds, which opinion may contain, and be subject to, conditions, exceptions or qualifications as are then customarily included in such opinions, (iii) making the payment which accompanies such opinion would not constitute an avoidable preference under Section 547 of the Bankruptcy Code or under applicable state

law in the event of a filing of a petition for relief under the Bankruptcy Code or such applicable state law by or against the Borrower and (iv) the Defeasance Collateral would not be part of the bankruptcy estate under Section 541 of the Bankruptcy Code or be subject to the automatic stay under Section 362 of the Bankruptcy Code in the event of a filing of a petition for relief under the Bankruptcy Code by or against the Borrower;

(f) then, except as otherwise provided in Section 7.05, the rights of the Bondholder shall be limited to the cash or cash and securities deposited as provided in clause (a)(i) or (a)(ii) above, and upon the Borrower's request the rights and interest hereby granted or granted by the Bond Loan Documents to or for the benefit of the Trustee or the Bondholders shall cease and terminate, and the Issuer and the Trustee shall, at the expense of the Borrower, execute and deliver such instruments of satisfaction and transfer as may be necessary, and forthwith the estate, right, title and interest of the Trustee in and to all of the Project and in and to all rights under this Indenture and the Bond Loan Documents (except the moneys or securities or both deposited as required above, rebatable arbitrage and except as may otherwise be provided in Section 7.05) shall thereupon be discharged and satisfied; except that in any event the obligations of the Borrower under Section 3.30 and Article VII of the Bond Loan Agreement shall survive.

Section 7.02. Cancellation of Surrendered Bonds. The Issuer or the Borrower may at any time surrender to the Trustee for cancellation by the Trustee Bonds which the Issuer or Borrower acquired in any lawful manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 7.03. Payment of Bonds. The Bonds or any portion thereof shall be deemed paid if the conditions set forth in Section 7.01 hereof have been satisfied with respect thereto, even though an additional portion of the Bonds may remain Outstanding.

Section 7.04. Application of Deposited Money. All money, securities and income thereon deposited with the Trustee pursuant to Section 7.01 for the purpose of paying the principal, premium, if any, and interest on the Bonds shall be applied by the Trustee solely for such purpose.

Section 7.05. Survival of Certain Provisions. Notwithstanding satisfaction of the conditions set forth in subsection 7.01(a)(ii) hereof, the provisions contained in Sections 4.07, 4.08, 4.09, 4.10 and 5.07 shall survive the discharge of this Indenture pursuant to Section 7.01(a)(ii).

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01. Events of Default. Each of the following events is hereby declared an "Event of Default" under this Indenture:

(a) The failure to pay any installment of principal or the redemption price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption or otherwise;

(b) The failure to pay any installment of interest on any Bond when and as the same shall become due and payable; and

(c) The Issuer shall fail to perform or observe any other covenant, agreement or condition on its part contained in this Indenture or in the Bonds, and such failure shall continue for a period of thirty (30) days after written notice thereof to the Issuer by the Trustee or by the Bondowner Representative.

Section 8.02. Default under Bond Loan Documents. Upon a default by the Issuer of its obligations hereunder, the Trustee shall take such actions to enforce the provisions of this Indenture as are specified in writing by the Bondowner Representative. Notwithstanding the foregoing, or anything else to the contrary herein, no default by the Borrower under the Bond Loan Agreement shall constitute an event of default with respect to the Bonds (including, without limitation, a failure to make any payment due with respect to the Bonds as a consequence of the Borrower's failure to make any payment due under the Bond Loan Agreement). The Bondholder's remedies with respect to a default under the Bond Loan Documents shall be as set forth under the Bond Loan Documents.

ARTICLE IX

THE TRUSTEE

Section 9.01. Acceptance of the Trustee. The Trustee, prior to the occurrence of an Event of Default and after an Event of Default has been cured by the Issuer or waived by the Bondowner Representative as provided in this Indenture, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture; and no implied covenants or obligations should be read into this Indenture against the Trustee. In case an Event of Default has occurred and is continuing and has not been waived, the Trustee agrees to perform such trusts as an ordinarily prudent man, but in any event, only upon and subject to the following express terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees and shall not be liable for any misconduct or negligence on the part of any agent or attorney appointed with due care, and shall be entitled to advice of counsel concerning all matters, issues or questions related hereto and duties hereunder, and may in all cases pay such reasonable compensation to any attorney, agent, receiver or employee retained or employed by it in connection herewith and shall be entitled to reimbursement from the Borrower for such payment. The Trustee may act upon the written opinion or written advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care or, if selected or retained by the Issuer, provided that the only legal advice or opinion that the Trustee may rely upon for purposes of securing advice or an opinion relating to the tax-exempt status of the Bonds is given by Bond Counsel. The Trustee shall not be responsible for any loss or damage resulting from any action taken in good faith in reliance upon such opinion or advice.

(b) (b) The Trustee shall not be responsible for any recital herein or in the Bonds or for the investment of moneys as herein provided (except as provided in Section 6.01 or 6.02), or for collecting any property insurance proceeds, or for the validity of the execution by the Issuer of this Indenture, or of any supplemental indentures or instruments of further assurance, or for the sufficiency of any security for the Bonds, or for the value of title of the property herein conveyed, if any, or otherwise as to the maintenance of the security hereof; except as otherwise provided in Sections 4.04 and 4.05 and except that in the event the Trustee enters into possession of a part or all of the property conveyed pursuant to any provisions of this Indenture or the Mortgage, it shall use due diligence, subject to Sections 9.01(k) and (l) hereof, in preserving such property. The Trustee may, but shall be under no duty to, require of the Borrower full information and advice as to the performance of the covenants, conditions and agreements in the Bond Loan Agreement, the Regulatory Agreement and the Mortgage as to the condition of any Mortgaged Property and the performance of all other obligations thereunder and shall use reasonable efforts, but without any obligation, to advise the Issuer and the Borrower of any impending Event of Default actually known to the Trustee.

(c) The Trustee shall not be accountable for the use or application of the Bonds or the Proceeds thereof (except as herein expressly provided) or for the use or application of any money paid over

by the Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any Paying Agent. The Trustee may become the owner of the Bonds secured hereby with the same rights it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any written notice, order, requisition, request, consent, certificate, opinion (including an opinion of Independent Counsel or Bond Counsel), affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, and the Trustee shall be under no duty to make an investigation or inquiry into any statement contained therein. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Holder of any Bond, shall be conclusive and binding upon all future Holders of the such Bond.

(e) As to the existence or nonexistence of any fact or as to the sufficiency or authenticity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the Issuer signed by its Representative as sufficient evidence of the facts stated therein. The Trustee may accept a certificate of the Secretary or Assistant Secretary of the Issuer to the effect that a motion or resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such motion or resolution has been duly adopted, and is in full force and effect, and may accept such motion, resolution or ordinance as sufficient evidence of the facts stated therein and the necessity or expediency of any particular dealing, transaction or action authorized or approved thereby.

(f) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing the real and tangible personal property as in this Indenture provided.

(g) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right (but not the duty) to inspect fully any and all of the property comprising the Mortgaged Property, including all books, papers and records of the Issuer pertaining to the Mortgaged Property and the Bonds, and to take such memoranda from and with regard thereto as may be desired.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of said trusts and powers or otherwise with respect to the Mortgaged Property.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee shall have the right, but shall not be required, to demand, with respect to the authentication of the Bonds, the withdrawal of any cash except for withdrawals required by the express terms of this Indenture, the release of any property or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions (including opinions of Independent Counsel), appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the Issuer to the authentication of the Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(j) The Issuer shall not be liable for the payment of such sums or for providing for the indemnification of the Trustee.

(k) Notwithstanding any provision of this Indenture to the contrary, before taking any action hereunder, the Trustee may require that it be furnished indemnity satisfactory to it for the

reimbursement of all expenses to which it may be put and to protect it against all liability (except liability which is adjudicated to have resulted from the negligence or willful misconduct of the Trustee) by reason of any action so taken by the Trustee.

(l) No provision of this Indenture or any Bond Loan Document shall require the Trustee to expend or risk its own funds, make advances or otherwise incur any financial liability in the performance of any of its duties, or the exercise of its rights and powers hereunder.

(m) Notwithstanding anything to the contrary contained in this Indenture, in the event the Trustee is entitled or required to commence an action or otherwise exercise remedies to acquire control or possession of any or all of the Project under, but not limited to, the provisions of the Mortgage, the Trustee shall not be required to commence any such action or exercise any such remedy if the Trustee has determined in good faith that it may incur liability under an Environmental Law (as defined below) as the result of the presence at, or release on or from the Project of any Hazardous Substances unless the Trustee has received security or indemnity, from a person, in an amount and in a form all satisfactory to the Trustee in its sole discretion, protecting the Trustee from all such liability. The term "Environmental Law" shall mean any federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

(n) The Trustee is under no obligation to monitor the receipt of rents by the Borrower.

(o) The Trustee is authorized and directed to execute in its capacity as Trustee the Regulatory Agreement.

(p) The immunities and protections extended to the Trustee also extend to its directors, officers, employees and agents.

(q) The Trustee shall not be liable for any action taken or not taken by it in accordance with the direction of the Bondowner Representative or a majority (or other percentage provided for herein) in aggregate principal amount of Bonds Outstanding relating to the exercise of any right, power or remedy available to the Trustee.

(r) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

Section 9.02. Trustee's Fees, Charges and Expenses.

(a) The Trustee and any Paying Agent shall be entitled to payment and/or reimbursement for Ordinary Fees and Expenses and all advances, counsel fees and other expenses reasonably made or incurred by the Trustee in and about the execution of the trusts created by this Indenture in and about the exercise and performance of the powers and duties of the Trustee hereunder in connection with the Event of Default and for the reasonable and necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful misconduct of the Trustee) in connection with the Event of Default. In this regard provisions have been made in the Bond Loan Agreement for the payment of said fees, advances, counsel fees, costs and expenses, and reference is hereby made to the Bond Loan Agreement for the provisions so made; and the Issuer shall not otherwise be liable for the payment of such sums.

(b) The compensation of the Trustee shall not be limited by any provision of law which limits the compensation of a trustee of an express trust.

Section 9.03. Notice to Holders of Default. The Trustee shall give to the Bondholders and the Issuer written notice of all defaults under the Bond Loan Documents known to the Trustee, within five days (or as soon as reasonably practicable thereafter) after the Trustee has actual knowledge or receives written notice of such defaults.

Section 9.04. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Bondholders, the Trustee may intervene on behalf of Holders and, to the extent that it is indemnified to its reasonable satisfaction, shall do so if requested in writing by the Bondowner Representative. The rights and obligations of the Trustee under this Section 9.04 are subject to the approval of a court of competent jurisdiction in the premises.

Section 9.05. Successor Trustee. Any corporation, association or agency into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall, with the consent of the Issuer and the Bondowner Representative, be and become successor trustee and paying agent under this Indenture and vested with all of the title to the Trust Estate, and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding. If the Issuer's and Bondowner Representative's consent is not obtained, the Trustee shall be deemed to have been removed as set forth in Section 9.07 hereof.

Section 9.06. Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving 60 days' written notice to the Issuer, the Bondowner Representative and the Borrower and by first class mail to the Bondholders as shown on the Bond Register, and such resignation shall take effect upon the appointment of a successor trustee as provided in Section 9.08. Such notice to the Issuer, the Bondowner Representative or the Borrower may be served personally or sent by registered or certified mail, or overnight courier. If after the expiration of such 60 days' written notice, no successor has been appointed, the resigning Trustee or successor trustee shall have the right to have a successor appointed by a court of competent jurisdiction.

Section 9.07. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee, Borrower and Issuer, and signed by the Issuer or by the Bondowner Representative.

Section 9.08. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Issuer, with the consent of the Bondowner Representative, by an instrument or concurrent instruments in writing signed by the Issuer. Every such Trustee appointed pursuant to the provisions of this Section 9.08 must be a trust company or bank having trust powers and having (or if such bank or trust company is a member of a bank holding company system, its bank holding company has) a reported capital and surplus not less than \$50,000,000.

Section 9.09. Acceptance by Successor Trustees. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, to the Borrower and also to the Issuer, an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any

further act, deed or conveyance shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors as Trustee and Paying Agent; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article IX, shall be forthwith filed or recorded or both by the successor Trustee in each recording office where this Indenture or the Mortgage shall have been filed or recorded or both.

Section 9.10. Right of Trustee To Pay Taxes and Other Charges. In case any tax, assessment or governmental or other charge upon any part of the Project is not paid prior to delinquency, to the extent, if any, that the same is legally payable, the Trustee may, but shall be under no duty to, pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Trustee or any Bondholder hereunder arising as a consequence of such failure; and any amount at any time so paid under this Section 9.10, under the Bond Loan Agreement, or under the Mortgage, with interest thereon at the rate borne by the Bonds at the Default Rate, shall be repaid to the Trustee upon demand under the Bond Loan Agreement, and shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over the Bonds, except with respect to the payment of any principal, interest or premium on the Bonds which is then due but not paid, but the Trustee shall be under no obligation to make such payment of taxes, assessments or governmental charges unless it shall have been requested to do so by the Bondowner Representative and shall have been provided with adequate indemnity for the purpose of such payment. Any such payment shall be made upon five (5) days' prior written notice to the Borrower unless the delay occasioned by any such written notice could result in the forfeiture or termination of any right.

Section 9.11. Trustee Protected in Relying Upon Resolutions. The resolutions, orders, requisitions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee.

Section 9.12. Successor Trustee as Custodian of Funds and Paying Agent. In the event of a change in the office of the Trustee the predecessor Trustee which has resigned or been removed shall cease to be custodian of the Funds described in Article V and shall cease to act as a Paying Agent for principal and interest on the Bonds, and the successor Trustee shall be and become such custodian and a Paying Agent.

Section 9.13. Right of Bondowner Representative To Enforce.. Notwithstanding anything to the contrary contained in this Indenture or in any of the Bond Loan Documents, the Bondowner Representative has the right to act on behalf of the Issuer and the Trustee by taking any action which the Bondowner Representative in its good faith discretion deems prudent to enforce any right or remedy of the Issuer or Trustee under the Bond Loan Documents.

Section 9.14. Co-Trustee.

(a) At any time or times upon the consent of the Issuer and the Bondowner Representative, for the purpose of meeting any legal requirements of any jurisdiction in which any part of

the Trust Estate may at the time be located, the Trustee shall have the power to appoint one or more persons either to act as co-trustee or co-trustees, jointly with the Trustee, of all or any part of the Trust Estate, or to act as separate trustee or separate trustees of all or any part of the Trust Estate, and to vest in such person or persons, in such capacity, such right to the Trust Estate or any part thereof, and such rights, powers, duties, trusts or obligations as the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section 9.14. Every such co-trustee or separate trustee appointed pursuant to the provisions of this Section 9.14 must be a trust company or bank having trust powers and having a reported capital and surplus not less than \$50,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(b) [Reserved]

(c) Every co-trustee or separate trustee shall, to the extent permitted by law but to such extent only, be appointed subject to the following terms, namely:

(i) All rights, powers, trusts, duties and obligations conferred by this Indenture upon the Trustee with respect to the custody, control or management of moneys, papers, securities and other personal property shall be exercised solely by the Trustee.

(ii) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees or separate trustee or separate trustees jointly, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees; provided, however, the Trustee shall remain responsible for exercising all rights and powers, maintaining all trusts and performing all duties and obligations conferred or imposed upon the trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(iii) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee.

(iv) Any co-trustee or separate trustee may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(v) The Trustee at any time, by an instrument in writing, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section 9.14. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section 9.14.

(vi) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(vii) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Trustee shall be deemed to have been delivered to each co-trustee or separate trustee.

(viii) Any moneys, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

(d) Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, such co-trustee or separate trustee shall be vested with such interest in and to the Trust Estate or any part thereof, and with such rights, powers, duties or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as local law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee. Any co-trustee or separate trustee may, at any time by an instrument in writing, constitute the Trustee its or his or her attorney in fact and agent, with full power and authority to do all acts and things and to exercise all discretion on its or his or her behalf and in its or his or her name.

(e) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the title to the Trust Estate and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the manner herein provided.

Section 9.15. Obligations as to Reporting. The Trustee shall provide to the Issuer, upon request, monthly reports of the balances in the Funds held under Article V and any other information reasonably requested by the Issuer and available to the Trustee without incurring undue burden or expense.

Section 9.16. Appointment of Bond Registrar and Paying Agent. The Issuer hereby appoints the Trustee as Bond Registrar and Paying Agent under this Indenture.

Section 9.17. Successor Paying Agent or Bond Registrar. The provisions of Sections 9.05 through 9.09 with respect to removal, resignation and appointment of a successor trustee shall be equally applicable to the removal, resignation and appointment of a successor to the Paying Agent and the Bond Registrar. If permissible under applicable law, the Trustee shall be eligible for appointment as successor to the Paying Agent if the Trustee is not then already serving in such capacity.

Section 9.18. Confirmation of the Trustee.

(a) At any time while the Bonds remain outstanding under this Indenture, if the Trustee reasonably questions whether it has proper authority to take action hereunder, the Trustee may, and upon request of the Issuer, the Borrower or the Holders shall, proceed in accordance with an opinion of Bond Counsel.

(b) In construing and interpreting this Indenture and any other Bond Loan Document, the objective shall always be to ascertain and effectuate the intention of the parties.

(c) The Trustee or successor Trustee shall not be answerable for actions taken in compliance with any final order of the court. The Trustee or successor Trustee shall not be entitled to require an indemnity bond pursuant to Section 9.01(k) prior to taking any action directed by final order of the court.

Section 9.19. Certain Representations of Trustee. The Trustee represents that:

(a) The Trustee will take possession of the Note in accordance with the terms of this Indenture in the ordinary course of its business and without knowledge that the Note is subject to a security interest (except the security interest of the Trustee under this Indenture).

(b) The Trustee is a bank which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity pursuant to the terms of this Indenture and it will maintain the accounts hereunder as trust accounts and shall administer such accounts in the same manner it administers similar accounts established for the same purpose.

ARTICLE X

SUPPLEMENTAL INDENTURES

Section 10.01. Supplemental Indentures. The Issuer and Trustee may, from time to time and at any time with the prior written consent of the Bondowner Representative enter into an indenture or indentures supplemental to this Indenture for any lawful purpose.

Section 10.02. Rights of Borrower. Anything herein to the contrary notwithstanding, a supplemental indenture under this Article X which adversely affects the rights of the Borrower under this Indenture, the Bond Loan Agreement, the Note, the Regulatory Agreement or the Mortgage shall not become effective unless and until the Borrower and Investor Limited Partner shall have consented (either in writing or by inaction as provided below) to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture, together with a copy of the proposed supplemental indenture, to be mailed by certified or registered mail to the Borrower and Investor Limited Partner at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture. Either of the Borrower or Investor Limited Partner shall be deemed to have consented to the execution and delivery of any such supplemental indenture if the Trustee does not receive a letter signed by an authorized representative of the respective party of protest or objection thereto on or before 5:30 p.m., Central Standard or Central Daylight Time, whichever is then in effect in Dallas, Texas, of the fifteenth day after the mailing of said notice and a copy of the proposed supplemental indenture to the Borrower and Investor Limited Partner unless such fifteenth day falls on a day which is not a Business Day, in which event the letter of objection must be received not later than the next succeeding Business Day.

Section 10.03. Rights of Trustee. The Trustee shall not be required to consent to any supplemental indenture referred to in this Article X unless it has first received an opinion of Independent Counsel that such Supplemental Indenture is allowed by this Indenture.

Section 10.04. Favorable Opinion of Bond Counsel. Any supplemental indenture governed by this Article X shall be accompanied by a Favorable Opinion of Bond Counsel.

ARTICLE XI

AMENDMENTS TO BOND LOAN DOCUMENTS

Section 11.01. Amendments. The Issuer or the Trustee or both may, but only with the prior written consent of the Bondowner Representative, consent to or enter into amendments to the Bond Loan Documents for any lawful purpose.

Section 11.02. [Reserved].

Section 11.03. Favorable Opinion of Bond Counsel. Any amendment governed by this Article shall be accompanied by a Favorable Opinion of Bond Counsel.

Section 11.04. Rights of Trustee. The Trustee shall not be required to consent to any amendment referred to in this Article XI unless it has first received an opinion of Independent Counsel that such amendment is allowed by this Indenture.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.01. Consent of Holder. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Holder may be in any number of concurrent writings of similar tenor and must be signed or executed by such Holder in person, the Bondowner Representative or by agent duly appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of the Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; and

(b) The fact of the ownership by any Person of the Bonds and the amount and number of the Bonds, and the date of the holding of the same, may be proved only by reference to the Bond Register.

Section 12.02. Rights Under Indenture. Nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any person or company other than the parties hereto, the Bondholder and Bondowner Representative, any legal or equitable right, remedy, or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Holders of the Bonds hereby secured as herein provided.

Section 12.03. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 12.04. Notices. All notices, certificates or other communications hereunder shall be given to all parties identified below, shall be in writing (except as otherwise expressly provided herein; provided, a copy of any notice sent to the Borrower shall also be sent to the Investor Limited Partner) and shall be sufficiently given and shall be deemed given when delivered by hand delivery, telegram or facsimile or served by depositing the same with the United States Postal Service, or any official successor thereto,

designated as Registered or Certified Mail, Return Receipt Requested, bearing adequate postage, or delivery by reputable private courier such as Federal Express, Airborne, DHL or similar overnight delivery service, and addressed as hereinafter provided. Notices, except to the Trustee, shall be deemed given when mailed as provided herein. Notices to the Trustee shall be deemed given only when received by the Trustee. All parties identified below may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Any notice, certificate, report, financial statement or other communication properly provided by legal counsel on behalf of any party hereunder shall be deemed properly provided by the party represented by such counsel. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Issuer: Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Manager of Multifamily Bonds
Telephone: (512) 475-3344
Facsimile: (512) 475-1895

To the Borrower: TCD MCM, LP
c/o Triton Community Development
14131 Yorba St, Ste. 104
Tustin, CA 92780
Attention: William Rice
Telephone: (818) 371-4789

copy to: Hobson Bernardino + Davis LLP
Citigroup Center
444 S. Flower St., Ste. 3100
Los Angeles, CA 90071
Attention: Jason Hobson
Telephone: (213) 235-9191
Facsimile: (213) 235-9190

copy to: Shackelford, Bowen, McKinley
& Norton, LLP
9201 N Central Expressway, 4th floor
Dallas, Texas 75231
Attention: John Shackelford
Telephone: (214) 780-1414
Facsimile: _____

To the Investor Limited Partner: Hunt Capital Partners Tax Credit Fund 27, LP
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss
Email: jeff.weiss@huntcompanies.com

copy to: Pillsbury Winthrop Shaw Pittman
1200 Seventeenth Street, NW
Washington, DC 20036
Attention: Craig A. de Ridder

Email: craig.deridder@pillsburylaw.com

To the Trustee:

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, TX 75248
Attention: Dayna Smith
Telephone: (972) 383-3152
Facsimile: (872) 385-0844

To the initial Bondowner
Representative:

JPMorgan Chase Bank, N.A.
Community Development Banking
300 South Grand Avenue, 4th Floor
Los Angeles, CA 90071-3109
Attention: Raymond Junior, Executive Director
Telephone: (213) 621-8392
E-mail: raymond.junior@chase.com

Copy to:

JPMorgan Chase Bank, N.A.
Legal Department
4 New York Plaza, 21st Floor
Mail Code: NY1-E089
New York, New York 10004-2413
Attention: Michael R. Zients, Executive Director
and Assistant General Counsel
Telephone: (212) 623-1664
E-mail: michael.r.zients@chase.com

Section 12.05. Required Approvals. Consents and approvals required by this Indenture to be obtained from the Borrower, the Issuer or the Trustee shall be in writing and shall not be unreasonably withheld or delayed.

Section 12.06. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.07. No Personal Liability. Neither the members of the governing body of the Issuer nor any officer, agent, representative or employee of the Issuer nor any person executing this Bond shall be subject to any personal liability or accountability by reason of the issuance hereof, whether by virtue of any Constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly waived as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds.

Section 12.08. Complete Agreement. The Issuer and the Trustee understand that oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt, including promises to extend or renew such debt, are not enforceable. To protect the Issuer and the Trustee from misunderstandings, any agreements the Issuer and the Trustee reach covering such matters are contained in this Indenture, which is the complete and exclusive statement of the agreement between the Issuer and the Trustee, except as the Issuer and the Trustee may later agree in writing to modify this Indenture as more particularly provided herein.

Section 12.09. Compliance with Texas Government Code. The Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Indenture, the Bond Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, and such representation is hereby incorporated by reference into each of the documents referenced herein. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Trustee understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Trustee understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

[Remainder of page intentionally left blank]

The Issuer has caused this Indenture to be executed in its name and on its behalf by its duly authorized officer, and the Trustee has caused this Indenture to be executed in its name by its duly authorized officer, all as of the date set forth above.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: J.B. Goodwin
Title: Chair

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

By: _____
Name: Dayna Smith
Title: Vice President

[signature page to Indenture of Trust]

EXHIBIT A

**(FORM OF REQUISITION CERTIFICATE)
COSTS OF ISSUANCE/ PROJECT FUND**

Date: _____, _____

Requisition No: _____

REQUISITION CERTIFICATE

TO: WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE UNDER THE INDENTURE OF TRUST DATED AS OF JANUARY 1, 2019, BETWEEN THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS AND THE TRUSTEE.

TCD MCM, LP, a Texas limited partnership (the "Borrower"), hereby requests that the following amounts be paid from the [Cost of Issuance/Project Fund] to the following payees for the following purposes:

<u>Amount</u>	<u>Payee and Address</u>	<u>Purpose</u>
\$ _____		

The Borrower hereby certifies that:

(a) obligations in the stated amounts have been incurred and performed at the Project and are presently due and payable and that each item thereof is a proper charge against the [Cost of Issuance/Project Fund] and has not been the subject of a previous withdrawal from the [Cost of Issuance/Project Fund];

(b) to the best of the undersigned's knowledge there has not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation;

(c) (i) obligations as stated on the requisition have been properly incurred, (ii) such work was actually performed or such materials or supplies were actually furnished or installed in or about the Project, (iii) if contested, bond has been made by the Borrower and (iv) either such materials or supplies are not subject to any lien or security interest or any such lien or security interest will be released or discharged upon payment of the requisition;

(d) all rights, title and interest to any and all personal property acquired with the proceeds of the requisition is vested in the Borrower;

(e) the Borrower is in compliance with all of the Borrower's covenants contained in the Bond Loan Agreement and the Regulatory Agreement;

(f) following payments of the amounts requested by this Requisition, not less than 95% of amounts paid from Net Proceeds of the Bonds will have been applied to the payment of Qualified Project Costs, and not more than two percent of amounts paid from Sale Proceeds of the Bonds will have been applied to Costs of Issuance.

(g) all representations and warranties of the Borrower contained in the Bond Loan Agreement and the Tax Exemption Agreement are on the date hereof true and accurate; and

(h) the Borrower is not in default under the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Bond Loan Documents or the Construction Disbursement Agreement and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations thereunder.

Requested this _____ day of _____, _____.

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

The undersigned Bondowner Representative is not making any certification with respect to the matters being certified to by the Borrower in this Requisition.

By signing this Requisition, the Bondowner Representative is confirming that it has either received or waived the receipt of the Draw Request required by the Bond Loan Agreement.

Approved by the Bondowner Representative this ____ day of _____, _____.

JPMORGAN CHASE BANK, N.A.,
as Bondowner Representative

By _____

Title _____

EXHIBIT B
FORM OF BOND

No. [R-___][I-1]

\$[_____]

UNITED STATES OF AMERICA
STATE OF TEXAS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE BONDS
(MCMULLEN SQUARE),
SERIES 2019

THIS BOND IS A RESTRICTED SECURITY AND MAY BE TRANSFERRED ONLY AS PROVIDED HEREIN AND IN THE HEREIN DESCRIBED INDENTURE.

REGISTERED HOLDER: _____

PRINCIPAL AMOUNT: _____ DOLLARS (\$ _____)

Maturity Date

Dated Date

_____ 1, 20__

January __, 2019

The Texas Department of Housing and Community Affairs (the "Issuer"), a public and official agency of the State of Texas, for value received, promises to pay to the Registered Holder specified above, or registered assigns, but only from the Bond Fund established under the Indenture described below (the "Bond Fund"), and upon presentation and surrender hereof (excluding mandatory sinking fund payments) at the principal corporate trust office of the Trustee named below, the Principal Amount last appearing on the Principal Log attached hereto, on the Maturity Date specified above, or, if this Bond is redeemable as stated below, on a prior date on which it shall have been duly called for redemption, and to pay interest on said Principal Amount to the Record Date Holder hereof, as defined below, solely from the Bond Fund, until the Principal Amount is paid or discharged, at a per annum rate equal to the Applicable Rate as set forth in the Indenture on the basis of a 360 day year for the actual number of days elapsed. Interest hereon shall be calculated as described above on the Principal Amount outstanding hereunder as evidenced on **Exhibit A** hereto. Principal and interest shall be payable on each Payment Date, commencing _____ 1, 2019, or as otherwise specified herein and in the Indenture (each, a "Payment Date"). This Bond shall bear interest from the Dated Date specified above or (in the case of transfer or exchange) from the most recent Payment Date to which interest has been paid or provided for. The "Record Date Holder" is the person in whose name this Bond is registered (the "Holder" hereof) in the Bond Register maintained by Wilmington Trust, National Association, as Bond Registrar, or its successor either (a) on the fifteenth day of the month (whether or not a Business Day) next preceding each Payment Date (the "Record Date"), irrespective of any transfer or exchange of such Bond subsequent to such Record Date and prior to such Payment Date, or (b) if there shall be a default in payment of principal and interest due on such Payment Date, at the close of business on a date (the "Special Record Date") for the payment of such defaulted principal and interest established by notice mailed on behalf of the Issuer. Notice of the Special Record Date shall be mailed, not less than 15 days before the Special Record Date, to the Holder at the close of business on the fifth Business Day next preceding the date of mailing. Principal and Interest shall be payable by check mailed to the

Holder at his, her or its address as it appears on the Bond Register on the Record Date or the Special Record Date, as the case may be, except as otherwise provided in the Indenture. The principal of and interest and premium, if any, on this Bond are payable in lawful money of the United States of America.

Notwithstanding anything contained herein to the contrary, during any period of time that the Note bears interest at the Default Rate, as defined in the Indenture, the Bonds shall also bear interest at the Default Rate. During any period of time the Note bears interest at the Taxable Rate, as defined in the Indenture, the Bonds shall also bear interest at the Taxable Rate.

THE BONDS OF WHICH THIS BOND IS A PART, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE NOT GENERAL OBLIGATIONS OF THE ISSUER, BUT ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND WILL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE (EXCEPT TO THE EXTENT PAID OUT OF MONEYS ATTRIBUTABLE TO PROCEEDS OF THE BONDS OR THE INCOME FROM THE TEMPORARY INVESTMENT THEREOF), AND ARE AND WILL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME MAY BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE LOAN AGREEMENT. THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND REDEMPTION PREMIUM, IF ANY, DO NOT NOW AND WILL NEVER CONSTITUTE A DEBT OR AN OBLIGATION OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF WILL BE LIABLE THEREFOR, THE BONDS ARE NOT AND DO NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY OTHER FEDERAL GOVERNMENTAL AGENCY AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES.

This Bond is a duly authorized Bond of the Issuer, issued in the maximum aggregate principal amount of \$10,000,000, known as the Issuer's Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 (the "Bonds"), issued in accordance with an Indenture of Trust dated as of January 1, 2019 (the "Indenture"), between the Issuer and Wilmington Trust, National Association, as trustee (the "Trustee"). The Bond is issued pursuant to and in compliance with the Chapter 2306, Texas Government Code, as amended (the "Act") and a resolution of the Governing Board of the Issuer. The Bond is issued for the purpose of making a loan of the proceeds thereof (the "Bond Loan") to TCD MCM, LP, a Texas limited partnership (the "Borrower"), under the provisions of a Bond Loan Agreement dated as of January 1, 2019 (the "Bond Loan Agreement"), among the Issuer, the Borrower and JPMorgan Chase Bank, N.A. to finance the acquisition, rehabilitation and equipping of McMullen Square consisting of residential rental housing located in San Antonio, Texas (the "Project"). The Bond Loan is evidenced by a promissory note (the "Note") from the Borrower to the Issuer and assigned without recourse by the Issuer to the Trustee. The Borrower has agreed to repay the Bond Loan, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable.

Pursuant to the Indenture, the Issuer has assigned and pledged to the Trustee, for the benefit of the Holder of the Bonds, all of its right, title and interest (except Reserved Rights) in and to the Bond Loan Agreement and Note. Pursuant to a Construction and Permanent Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing filed with respect to the Project (the “Mortgage”) dated as of January 1, 2019, and executed by the Borrower for the benefit of the Issuer, the Borrower has granted to the Issuer, for the benefit of the Holder of the Bonds, a mortgage lien on and a security interest in the Project and the rents and leases thereof. The Mortgage may be released or modified in any respect upon compliance with certain conditions in the Mortgage and the Indenture.

Exhibit A, attached hereto, shall be used by the Trustee to record the payment of the purchase price of the Bonds and the redemption or payment of principal of the Bonds from time to time. The Trustee shall not accept any funds as the purchase price of the Bonds, nor shall the Trustee pay to the Holder of the Bonds any payment of the principal amount thereof, without making an appropriate notation on **Exhibit A**. The total amount outstanding under the Bonds may not exceed \$10,000,000 at any time.

Reference is hereby also made to the Bond Loan Agreement, the Indenture and the Mortgage, including all supplements thereto, for a description of the property encumbered and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights of the Issuer, and the rights, duties and obligations of the Borrower, the Trustee and the Holder of the Bonds, and the terms upon which the Bond is issued and secured.

The Bond is subject to optional and mandatory redemption prior to maturity in whole or in part at such time or times, under circumstances, at such redemption prices in and such manor as set forth in the Indenture.

If the Bonds or any portion thereof is redeemed, the Trustee shall apply the principal amount of the Bonds redeemed in such manner as the Bondowner Representative (with the concurrence of the Trustee) determines so as to as nearly as possible maintain level principal and interest payments on the Bonds to the Maturity Date.

Notice of Redemption

No advance notice of redemption of this Bond shall be required. Notice of redemption shall be provided to the Bondowner within three Business Days upon receipt by the Trustee of funds to be used for such redemption except in the case of an extraordinary redemption due to a Determination of Taxability or a mandatory redemption upon Bond Loan Agreement or other Bond Loan Document Default, in which case notice of redemption shall be given upon the Trustee’s receipt of written notice of the occurrence of a Determination of Taxability or receipt by the Trustee of notice, or the Trustee’s actual knowledge, of a continuing default under the Bond Loan Agreement or the Mortgage, as appropriate. No defect in or failure to give notice shall affect the validity of the proceedings for redemption of the Bonds. Such notice, which shall be prepared by the Trustee at the expense of the Borrower, shall state the subsection under the Indenture pursuant to which the Bond is being called for redemption and shall specify the date on which and the place where it shall be presented for redemption. Except as specifically provided in the Indenture and provided sufficient funds are on deposit with the Trustee with respect to such redemption, the portion of the Bonds thus called for redemption shall cease to bear interest from and after the specified redemption and the Bondholder shall have no further rights with respect to the redeemed portion of this Bond or under the Indenture except to receive the redemption price of such Bond.

Method of Redemption

(a) The Trustee shall redeem the Bond or a portion thereof under subsection (a)(ii) or (f) above only if it has received immediately available funds sufficient for such purpose on or prior to the redemption date.

(b) If the Bond is redeemed pursuant to subsection (a)(ii) or (f) above, payment of the redemption price shall be deemed made by the Trustee's and the Issuer's absolute assignment to the Bondowner of all right, title and interest of the Issuer and the Trustee in and to the Bond Loan Documents. Such assignment shall constitute full and complete satisfaction of all obligations of the Issuer to the Bondholder under the Indenture.

(c) If the Bond is redeemed only in part, it shall be surrendered to the Trustee and the Trustee shall make an appropriate notation on the principal log attached hereto indicating the portion of the Bond redeemed.

Business Day Payments

If the date for payment of the principal of, premium, if any, or interest on this Bond shall be a day which is not a Business Day, then the date for such payment shall be the next succeeding day which is a Business Day, and payment on such later date shall have the same force and effect as if made on the nominal date of payment.

Enforcement; Modification of Indenture and Bond Loan Documents

The Holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Bond Loan Agreement. Modifications or alterations of the Indenture, of any indenture supplemental thereto or of Bond Loan Documents may be made only to the extent and in the circumstances permitted by the Indenture but only with the prior consent of the Bondowner Representative.

Denomination; Exchange; Treatment of Registered Holder

The Bond is issued as a single fully registered bond without coupons. The Bond may be exchanged by the Holder for another Bond, upon surrender thereof by the Holder at the principal corporate trust office of the Bond Registrar, in the manner and subject to the limitations provided in the Indenture. The Issuer, the Trustee, the Bond Registrar and any Paying Agent may deem and treat the Holder of the Bond as the absolute owner of the Bond (whether or not the Bond shall be overdue) for the purpose of receiving payment on the Bond (except as otherwise hereinabove provided with respect to the Record Date and Special Record Date) and for all other purposes, and the Issuer, the Trustee, the Bond Registrar and the Paying Agent shall not be affected by any notice to the contrary.

Registration of Transfer

The transfer of this Bond is subject to certain restrictions as provided in the Indenture and described below and to registration by the Holder in person or by the Holder's attorney hereof upon surrender of this Bond at the principal corporate trust office of the Bond Registrar, duly endorsed or accompanied by a written instrument or instruments of transfer in the form printed on this Bond or in another form satisfactory to the Bond Registrar and executed and with guaranty of signature by the Holder hereof or his, her or its attorney duly authorized in writing, containing written instructions as to the details of the registration of the transfer of this Bond. Thereupon the Issuer shall execute (if necessary) and the Bond Registrar shall

authenticate and deliver in the name of the transferee or transferees (but not registered in blank or to “bearer” or a similar designation), a new Bond.

Except as otherwise provided in the Indenture, the Bond may be transferred, as a whole but not in part, to a new Bondholder only upon receipt by the Registrar, the Issuer and the Trustee of evidence that such Bond is being transferred to a “qualified institutional buyer” (as defined in Rule 144A promulgated under the Securities Act of 1933, as amended). The Bond Registrar shall not register any transfer or exchange of the Bond unless such Bondholder’s prospective transferee delivers to the Trustee a purchaser’s letter substantially in the form set forth in Exhibit C to the Indenture and obtains the prior written consent of the Issuer.

Service Charges; Taxes

No service charge shall be made to the Holder for any registration, transfer or exchange, but the Bond Registrar and the Issuer may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of the Bond, other than exchanges expressly provided in the Indenture to be made without charge to the Holder, and any legal or other unusual costs of transfers and lost bonds.

Acceleration; Default

Each of the following events is hereby declared an “Event of Default” under this Indenture:

(a) The failure to pay any installment of principal or the redemption price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption or otherwise;

(b) The failure to pay any installment of interest on any Bond when and as the same shall become due and payable; and

(c) The Issuer shall fail to perform or observe any other covenant, agreement or condition on its part contained in this Indenture or in the Bonds, and such failure shall continue for a period of 30 days after written notice thereof to the responsible party by the Trustee or by the Bondowner Representative.

No default by the Borrower under any of the Bond Loan Documents shall constitute a default under the Indenture. The Bond is not subject to acceleration upon any Borrower default, although it may be redeemed as provided in the Indenture.

Governing Law

This Bond shall be governed by and construed in accordance with the laws of the State of Texas.

Indenture Controlling; Consent

The terms of this Bond are subject in all respects to the terms of the Indenture. If there is a conflict between the provisions of this Bond and the Indenture, the Indenture shall control. By acceptance of this Bond, the registered owner hereof hereby consents to the terms of the Indenture and the Bond Loan Documents.

THIS BOND SHALL NOT BE VALID OR BECOME OBLIGATORY for any purpose or be entitled to any benefit or security under the Indenture unless either (1) the Certificate of Authentication

hereon has been executed by the Trustee by manual signature, or (2) the Comptroller's Registration Certificate hereon has been executed by an authorized representative of the Comptroller of Public Accounts of the State of Texas by manual signature.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution, delivery and issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, including the Act.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name under its official seal by the manual or facsimile signature of its Authorized Representative and attested by the manual or facsimile signature of its Secretary all as of the Dated Date hereof.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Chair

(SEAL)

ATTEST:

By: _____
Secretary

[FORM OF CERTIFICATE OF AUTHENTICATION - do not include on Initial Bond]

CERTIFICATE OF AUTHENTICATION

This Bond is the Bond described in the within mentioned Indenture.

Date of Authentication: _____

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

By: _____
Name: _____
Title: _____

[FORM OF COMPTROLLER’S REGISTRATION CERTIFICATE - Include only on initial bond]

COMPTROLLER’S REGISTRATION CERTIFICATE

OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS § REGISTER NO. _____
THE STATE OF TEXAS §

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Texas Comptroller of Public Accounts.

Witness my signature and seal this _____.

Comptroller of Public Accounts of the State of
Texas

(Comptroller’s Seal)

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ Please Print or Typewrite Name and Address) (Please Insert Social Security or Other Identifying Number of Assignee: _____) (the within Bonds and all rights and title therein, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bonds on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed:

(Registered Owner)

NOTICE: Signature(s) must be guaranteed by a qualified guarantor institution

NOTICE: The signature(s) to this assignment must correspond with the name as it appears upon the face of the within Bonds in every particular, without alteration or enlargement or any change whatever.

As an alternative to the above "Signature Guaranty" the following or functionally equivalent Secretary Certificate may be executed:

AUTHORIZED SIGNER CERTIFICATION

I the undersigned, DO HEREBY CERTIFY that I hold the following title: Secretary, Assistant Secretary, Chief Financial Officer, Chief Executive Officer, President, Vice President, Treasurer, Managing Member, Manager, or Other _____ and I am authorized to certify on behalf of the Holder, as of the date of this Authorized Signer Certification, that the person(s) named above presently holds the office set forth below such person's name, and below the office designation is the genuine signature of such person.

That such person named above (an "Authorized Officer"), is authorized on behalf of the Holder to enter into or execute and deliver this request to transfer the Bonds including the above terms and conditions included in such request for an assignment of the Series 2019A Bond.

WITNESS WHEREOF, I have hereunto subscribed my name this ____ day of _____ 20__.

By: _____
(Signature)

Name: _____

EXHIBIT A

PRINCIPAL LOG

<u>Purchase Amount</u>	<u>Purchase Date</u>	<u>Redemption or Payment Amount</u>	<u>Redemption Date</u>	<u>Outstanding Principal</u>	<u>Trustee Initials</u>
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EXHIBIT C

FORM OF PURCHASER'S LETTER

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Wilmington Trust, National Association, as Trustee
15950 North Dallas Parkway, Suite 550
Dallas, TX 75248
Attention: _____

RE: McMullen Square

Ladies and Gentlemen:

The undersigned representative of _____ (the "Purchaser"), the initial purchaser of the Texas Department of Housing and Community Affairs \$10,000,000 Multifamily Housing Revenue Bonds (McMullen Square), Series 2019, dated January 1, 2019 (the "Bonds"), does hereby certify, represent and warrant for the benefit of the Texas Department of Housing and Community Affairs (the "Issuer") and Wilmington Trust, National Association, as trustee (the "Trustee"), that the Purchaser is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933, as amended (a "QIB").

The Purchaser hereby acknowledges, represents, and warrants to, and agrees with, the Issuer and the Trustee, as follows:

(1) The Purchaser is purchasing the Bonds with its own funds (or with funds from accounts over which it has sole investment authority) and not the funds of any other person, and for its own account (or for accounts over which it has sole investment authority) and not as nominee or agent for the account of any other person and not with a view to any distribution thereof, other than the deposit of the Bonds in a custodial or trust arrangement each of the beneficial owners of which shall be required to be a QIB. The Purchaser intends to hold the Bonds as evidence of a loan in its portfolio and acknowledges that the use of the word "Bonds" in the name of that instrument is for convenience only and is not intended to indicate that the instrument is a security within the meaning of the Securities Act of 1933.

(2) The Purchaser has such knowledge and experience in business and financial matters and with respect to the purchase and ownership of multifamily housing revenue bonds, tax-exempt securities and other investment vehicles similar in character to the Bonds, so as to enable it to understand and evaluate the risks of such investments and form an investment decision with respect thereto, the Purchaser has no need for liquidity in such investment and the Purchaser is (or any account for which it is purchasing is) able to bear the risk of such investment for an indefinite period and to afford a complete loss thereof.

(3) The Purchaser acknowledges that it has been provided with, and has had the opportunity to review, the documents relating to the issuance of the Bonds by the Issuer. The Purchaser either has been supplied with or has had access to information, including financial statements, and other financial information, and has had the opportunity to ask questions and

receive answers from individuals concerning the Issuer, TCD MCM, LP (the “Borrower”), and its credit standing, the Bond Loan Agreement dated as of January 1, 2019, among the Issuer, the Borrower and the Trustee (the “Bond Loan Agreement”), the Indenture of Trust dated as of January 1, 2019, between the Issuer and the Trustee (the “Indenture”), and the Bonds so that, as a sophisticated investor, the Purchaser has been able to make its decision to purchase the Bonds.

(4) The Purchaser has had the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information it may request.

(5) **THE PURCHASER UNDERSTANDS THAT:**

(a) NEITHER THE STATE OF TEXAS NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF TEXAS, SHALL BE LIABLE OR OBLIGATED (GENERALLY, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE PRINCIPAL OF THE BONDS OR THE PREMIUM, IF ANY, OR INTEREST THEREON, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS; AND

(b) THE ISSUER HAS NO TAXING POWER AND PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE BONDS IS PAYABLE SOLELY OUT OF THE MONEYS TO BE RECEIVED BY THE TRUSTEE ON BEHALF OF THE ISSUER UNDER THE BOND LOAN AGREEMENT AND AMOUNTS ON DEPOSIT IN THE FUNDS AND ACCOUNTS ESTABLISHED AND PLEDGED UNDER THE INDENTURE.

(6) The Purchaser understands that in connection with any proposed transfer or exchange of Bonds, there must be delivered to the Trustee a letter of the transferee in substantially the same effect as this letter or otherwise as permitted under the Indenture.

(7) The Purchaser understands that, in connection with any proposed transfer of the Bonds, such transfer must be limited to an Eligible Purchaser. “Eligible Purchaser” means a prospective transferee that the Purchaser has clear grounds to believe and does believe can make representations with respect to itself to substantially the same effect as the representations set forth herein.

(8) THE PURCHASER INDEMNIFIES THE ISSUER AND THE TRUSTEE AGAINST ANY AND ALL LIABILITY, COST OR EXPENSE (INCLUDING ATTORNEYS’ FEES) THAT RESULT IF THE REPRESENTATIONS CONTAINED IN THIS PURCHASER’S LETTER ARE FALSE IN ANY MATERIAL RESPECT.

(9) The Purchaser is acquiring 100% of the Bonds.

The Purchaser has conducted its own investigation to the extent it deemed necessary. The Purchaser has been offered an opportunity to have made available to it any and all such information it might request from the Issuer and the Borrower. On this basis, it is agreed by the Purchaser that the Purchaser is not relying on any other party or person to undertake the furnishing or verification of information related to the referenced transaction.

The Bonds for this Purchaser should be registered with the Trustee as follows and an executed W-9 has been attached:

Name: _____

Address: _____

Tax ID #: _____

Payment instructions: () wire () check

This letter and the representations and agreements contained herein are made for your benefit.

IN WITNESS WHEREOF, I have hereunto set my hand the _____ day of _____.

PURCHASER:

By: _____

Name: _____

Title: _____

**MUST BE SIGNED BY ACTUAL PURCHASER.
MAY NOT BE SIGNED BY NOMINEE OR AGENT**

LOAN AGREEMENT

by and among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

JPMORGAN CHASE BANK, N.A., a national banking association,
as Bondowner Representative

and

TCD MCM, LP, a Texas limited partnership,
as Borrower

Relating to:

\$10,000,000
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Bonds
(McMullen Square)
Series 2019

Dated as of January 1, 2019

The interests of the Issuer in this Agreement, excluding the Reserved Rights retained by Issuer, have been assigned to Wilmington Trust, National Association, as Trustee pursuant to an Indenture of Trust dated as of January 1, 2019 between the Texas Department of Housing and Community Affairs and Wilmington Trust, National Association, as Trustee.

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “**Agreement**”) is made and entered into as of January 1, 2019 by and among TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Issuer**”), JPMORGAN CHASE BANK, N.A, an national banking association (the “**Bondowner Representative**”) and TCD MCM, LP, a Texas limited partnership (the “**Borrower**”).

WITNESSETH:

WHEREAS, the Issuer is authorized under Chapter 2306, Texas Government Code, as amended (the “**Act**”) to enter into loan agreements with respect to one or more projects authorized under the Act for such payments and upon such terms and conditions as the Issuer may deem advisable in accordance with the provisions of the Act; and

WHEREAS, the Issuer has determined that the public purposes set forth in the Act will be furthered by the issuance, sale and delivery of Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 in the aggregate principal amount of \$10,000,000 (the “**Bonds**”), pursuant to an Indenture of Trust (as amended, modified or supplemented from time to time the “**Indenture**”), dated as of January 1, 2019, between the Issuer and Wilmington Trust, National Association, as trustee (together with any successor trustee under the Indenture and their respective successors and assigns, the “**Trustee**”), to provide funds to finance the costs of the acquisition, rehabilitation and equipping of the Project (as hereunder defined); and

WHEREAS, on January 18, 2018, the Governing Board of the Issuer adopted a resolution, as such resolution was amended by a resolution adopted on December 6, 2018, (the “**Resolution**”) indicating its intent to provide for the issuance of revenue bonds to finance the acquisition, rehabilitation and equipment of a multifamily residential rental project to be named McMullen Square Apartments located in the City of San Antonio and located on the land (the “**Land**”) more particularly described on Exhibit “B” attached hereto (the Land and all improvements and fixtures located thereon shall be collectively referred to herein as the “**Project**”); and

WHEREAS, Issuer deems it desirable and in keeping with its purpose to issue the Bonds and loan the proceeds thereof to Borrower for the purposes described above under the terms and conditions contained in this Agreement (the “**Loan**”); and

WHEREAS, to evidence such loan, Borrower is executing in favor of Issuer a promissory note (the “**Note**”) in the aggregate principal sum of \$10,000,000 substantially in the form attached hereto as Exhibit “A”, which Note provides for the repayment of the sums borrowed pursuant hereto in payments sufficient to pay, when due, the principal of, premium, if any, and interest on the Bonds and related expenses of Issuer and the Trustee and Project related expenses and Borrower has executed or caused to be executed the Mortgage (as such term is defined in the Indenture) and the Assignments referenced in recitals below with respect to the Project to secure, among other things, the payments due and other obligations under this Agreement; and

WHEREAS, Issuer has assigned its right and interest herein, in the Note and in the Mortgage to Trustee for the benefit of the Bondholder; and

WHEREAS, Bondowner Representative has been approved by the Bondholder to act on its behalf with respect thereto and has been authorized by Issuer to service the Loan; and

WHEREAS, the Loan consists of a construction and permanent loan in the principal amount not to exceed \$10,000,000; and

WHEREAS, this Agreement, the Note, the Mortgage, the Guaranty and all other documents which otherwise evidence, guaranty or secure the Loan, collectively constitute the "**Loan Documents**". The Loan Documents include, without limitation, the documents set forth in Exhibit "D" attached hereto;

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

ARTICLE I DEFINITIONS AND RULES OF INTERPRETATION

Section 1.01 **Definitions.** In this Agreement, all capitalized terms used herein and not defined shall have the meaning ascribed thereto in the Indenture. In addition to the words and terms defined in the Indenture and elsewhere herein, the following words and phrases shall have the following meanings:

"**Capital Contribution**" and "**Capital Contributions**" has the meaning assigned to such terms in Section 2.03(f).

"**CB Floating Rate**" means, for any day, the Prime Rate on such day; provided that the CB Floating Rate for any day shall never be less than the LIBO Rate plus 2.50% on such day (or if such day is not a Business Day, the immediately preceding Business Day). Any change in the CB Floating Rate shall be effective from and including the effective date of such change.

"**Costs of Issuance**" has the meaning given to such term in the Regulatory Agreement.

"**Eligible Tenant**" means a tenant under a lease which complies with applicable laws and the Regulatory Agreement.

"**First Maturity Date**" means _____, 2020, which date is 18 months from the Closing Date.

"**Permanent Term Maturity Date**" means [January 31, 2036].

"**Prime Rate**" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Lender) or any similar release by the Federal Reserve Board (as determined by Lender). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective or quoted as being effective.

"**Principal Balance**" means the outstanding balance of the Note at the time of determination.

"**Project Purposes**" means use of the Project as a multifamily residential rental property of low and moderate income, or any other use of the Project which will not (a) cause the Project to cease to qualify for financing under the Act or (b) cause the interest on the Bonds to become includable in gross income for federal income tax purposes (other than for any period during which a Bond is held by a person who is a

“substantial user” of the Project or a “related person” of such a “substantial user”, as such terms are used in the Code).

“**Regulatory Agreement**” means that Regulatory and Land Use Restriction Agreement of even date herewith by and among the Issuer, Borrower, and the Trustee.

"**Second Maturity Date**" means _____, 2021, which date is 24 months from the Closing Date.

“**Stated Maturity**” when used with respect to the Loan or the Bonds or any installment of interest thereon, means any date specified in this Agreement or the Bonds as a fixed date on which the principal of the Loan or the Bonds or a portion thereof or such installment of interest is due and payable.

"**Third Maturity Date**" means _____, 2021, which date is 30 months from the Closing Date.

Section 1.02 **Rules of Interpretation.**

(a) This Agreement shall be governed by and construed in accordance with the Act and judicial decisions of the State of Texas (the “**State**”), except as they may be preempted by federal rules, regulations and laws applicable to Issuer.

(b) The words “herein,” “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision of this Agreement.

(c) References in this Agreement to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Agreement as originally executed.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with tax basis accounting principles; and all computations provided for herein shall be made in accordance with tax basis accounting principles consistently applied and applied on the same basis as in prior years.

(e) The Table of Contents and titles of articles and sections herein are for convenience of reference only and are not a part of this Agreement and shall not define or limit the provisions hereof.

(f) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(g) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Agreement.

(h) Any opinion of counsel required hereunder shall be a written opinion of such counsel.

(i) References to the Bonds as “tax-exempt” or to the “tax-exempt status of the Bonds” are to the excludability of interest on the Bonds from gross income for federal

income tax purposes pursuant to Section 103 of the Code, irrespective of such forms of taxation as the alternative minimum tax, environmental tax or branch profits tax on foreign corporations, as is consistent with the approach taken in Section 59(i) of the Code.

ARTICLE II DISBURSEMENT OF FUNDS; ACCOUNTS; LOAN PAYMENTS

Section 2.01 **Amount and Source of Loan Disbursements; Bondowner Advances.**

(a) The Issuer has authorized the issuance of the Bonds in the aggregate principal amount of \$10,000,000. The Bondowner Representative will cause the Bondholder to purchase the Bonds. The Issuer agrees to make the Loan as a single advance in the amount of \$10,000,000 payable from the proceeds of the Bonds, which amount will then be transferred by Borrower to the Trustee for immediate deposit into the Project Fund, the Costs of Issuance Fund or the Interest Account of the Bond Fund as provided in subsection (c) below. The Borrower accepts the Loan from the Issuer upon the terms and conditions set forth in this Agreement and the Loan Documents, subject to the Indenture and the Regulatory Agreement. Disbursements from the Project Fund will be made based on requisitions made thereon from time to time by Borrower as provided herein. The Borrower agrees to have the proceeds of the Loan disbursed to Borrower from the Project Fund applied and disbursed directly or indirectly to provide for the cost of acquiring, constructing, and equipping of the Project.

(b) The Loan shall be evidenced by, payable in accordance with, and bear interest at the rates and on the terms provided in the Note and shall be secured by the Mortgage. The Borrower will repay the Loan in accordance with the provisions of the Note and this Agreement. Notwithstanding anything to the contrary contained herein, the Borrower covenants that it shall make payments, at such times and in such amounts to assure that payment of the principal of and premium, if any, and interest on the Bonds shall be made when due, whether at maturity, by call for redemption, by acceleration or otherwise.

(c) On the Closing Date, \$ _____ of the proceeds of the Loan shall be deposited into the Project Fund, [\$ _____ of the proceeds of the Loan shall be deposited in the Costs of Issuance Fund], and the remaining \$ _____ of the proceeds of the Loan shall be deposited in the Interest Account of the Bond Fund.

(d) Bondowner Representative shall consent to requisitions of amounts in the Project Fund for costs of the Project available for said purpose based on a detailed breakdown (“**Cost Breakdown**”) of acquisition, rehabilitation, financing and other development costs, which consent shall not be unreasonably withheld, conditioned or delayed. The initial Cost Breakdown, prepared by Borrower and approved by Bondowner Representative, is attached as Exhibit “H-1”.

(e) If Borrower cannot complete the Project in strict conformity with the most recently approved Cost Breakdown, Borrower shall immediately submit to Bondowner Representative for its approval a revised Cost Breakdown in the same format as the initial Cost Breakdown. Bondowner Representative need not make further disbursements unless and until it approves the revised Cost Breakdown.

(f) Except as provided in the attached Exhibit “E” (“Disbursement Schedule”), Borrower shall have provided to the Bondowner Representative all items in Section 2.03(b) for a disbursement of the applicable Borrower’s Sources to be funded.

(g) In no event shall Bondowner Representative be required to approve disbursements from Borrower’s Sources (as defined in Section 2.02 below) in an aggregate total amount in excess of the Total Project Costs (as defined in Section 2.02 below) (including contingency reserve and interest reserve) as set forth in the most recently approved Cost Breakdown.

Section 2.02 **Loan in Balance; Borrower’s Sources.**

(a) The Loan is “in balance” whenever (i) the undisbursed funds available to Borrower for the Project (taking into account, among other things, the timing of anticipated receipts and disbursements of funds) under the Loan, plus any Capital Contributions on deposit in the Equity Account (as defined below) or due and payable under the Partnership Agreement, and any other amounts deposited into a restricted account to be maintained with Bondowner Representative in Borrower’s name (the “**Equity Account**”), plus any sums on deposit in the Borrower’s Funds Account (as defined below) or otherwise made available to Bondowner Representative in the form of a letter of credit, pledged bank account, or other form of cash collateral, approved by Bondowner Representative in its sole and absolute discretion (“**Cash Collateral**”), after deferring any portion of the Development Fee payable to the Developer, are sufficient in the reasonable judgment of Bondowner Representative to pay, through completion of all of the Project and on a timely basis all of the following sums (“**Total Project Costs**”): (i) all costs of acquisition, equipment, ownership and maintenance of the Project and all costs and expenses of rehabilitation and equipment of the Project in accordance with the Plans and Specifications and the Cost Breakdown approved by Bondowner Representative; (ii) all costs of leasing or renting of the apartment units in the Project; and (iii) all interest and all other sums and costs which may accrue or be payable under the Loan Documents. The Equity Account, the Borrower’s Funds Account, and any Cash Collateral, together with undisbursed Loan funds in the Project Fund (with respect to budgeted construction items) and the Interest Account of the Bond Fund (with respect to budgeted interest) are collectively referred to herein as “**Borrower’s Sources**”. Borrower shall (i) cause Investor Limited Partner to deposit, as a condition to issuance of the Authorization to Proceed (as defined in Section 3.01 below), [the amount of the First Installment (as defined in the Partnership Agreement)], less any portion thereof used to pay Costs of Issuance, through the escrow for the closing of the Loan into the Equity Account on the date of issuance of the Bonds; (ii) cause Investor Limited Partner to deposit subsequent equity contributions in the Equity Account [as provided for in the Partnership Agreement]; and (iii) deposit amounts demanded by Bondowner Representative as set forth below when the Loan is “out of balance” into a restricted non-interest bearing account to be maintained with Bondowner Representative in Borrower’s name (the “**Borrower’s Funds Account**”) to be disbursed to complete the construction of the Project, unless Bondowner Representative has agreed otherwise in writing in each instance, which agreement may be withheld by Bondowner Representative in its sole reasonable discretion.

(b) The Loan is “out of balance” if and when Bondowner Representative determines that there are insufficient funds (taking into account the amount and timing of all of Borrower’s Sources and deferral of the Development Fee) in the judgment of Bondowner Representative to pay, through completion of the Project, all Total Project

Costs. Borrower acknowledges that the Loan may become “out of balance” in numerous ways, not all of which may now be foreseen. Borrower further acknowledges that the Loan may become “out of balance” from a shortage of funds in any single line item or category of the Cost Breakdown, even if there are undisbursed Loan funds in other line items or categories. Except as permitted in Section 3 of the Disbursement Schedule, undisbursed funds in one category or line item may not be applied to another category or line item unless Bondowner Representative consents in writing to such use in each instance. All disbursements of Loan proceeds must comply with the requirements of the Regulatory Agreement and the Indenture.

(c) Whenever the Loan becomes “out of balance,” Bondowner Representative may, at its option, make written demand on Borrower to deposit Borrower’s own funds into the Borrower’s Funds Account and/or draw upon, demand, or otherwise obtain payment to Bondowner Representative of any Cash Collateral, in any such instance in an amount sufficient in Bondowner Representative’s estimation to cause the Loan to be “in balance.” Within 15 business days following Bondowner Representative’s written demand, Borrower must deposit into the Borrower’s Funds Account all funds required by Bondowner Representative’s demand that are in excess of any Cash Collateral actually delivered to Bondowner Representative. Borrower must also submit, for Bondowner Representative’s approval, a revised Cost Breakdown (with a copy to Issuer) within 15 business days after any such demand.

Section 2.03 **Disbursement Procedures.**

(a) Bondowner Representative shall consent to requisitions of amounts in the Project Fund and disburse deposits in the Equity Account as described herein and in the Disbursement Schedule. Notwithstanding recording of the Mortgage or anything contained in this Agreement, Bondowner Representative shall not be required to approve any disbursement of Loan proceeds and amounts on deposit in the Equity Account (except for fees, costs and reimbursements payable to Bondowner Representative), unless and until Bondowner Representative has determined that: (i) the amount and timing of Borrower’s Sources are sufficient to pay the Total Project Costs, (ii) the Mortgage and all disbursements of the Loan funds will be and shall remain a first priority lien on the Project, and (iii) Bondowner Representative shall have received evidence satisfactory to Bondowner Representative that Borrower has been awarded federal low income housing tax credits (“**LIHTCs**”) in an amount not less than \$ _____.

(b) Disbursements of Borrower’s Sources to Borrower shall be made by the Trustee from the Project Fund and by the Bondowner Representative from the Equity Account and all other of Borrower’s Sources by deposit into a non-interest bearing checking account to be maintained with Bondowner Representative in the name of Borrower (the “**Checking Account**”) unless otherwise requested by Borrower and consented to by Bondowner Representative. Before Bondowner Representative becomes obligated to consent to a requisition of amounts in the Project Fund, or the Equity Account, it must receive a written request signed by Borrower or Borrower’s agent designated in Section 5 of the Disbursement Schedule attached hereto as Exhibit “E”, using a form acceptable to Bondowner Representative (“**Draw Request**”), accompanied by such documentation and information as Bondowner Representative may reasonably require (for fundings from the Project Fund, and the Equity Account, the documentation shall include a signed Requisition Certificate on the form attached to the Indenture as Exhibit “A”). If Bondowner Representative approves a Requisition Certificate, Bondowner Representative

will then submit the Requisition Certificate to the Trustee. In each Draw Request, Borrower shall request disbursement for one or more specified line item(s) of the Cost Breakdown. Each Draw Request shall be accompanied by lien waivers, on forms acceptable to the Bondowner Representative, from, if requested by Bondowner Representative, each of Borrower's merchants, vendors, materialmen, suppliers, laborers, subcontractors, and other appropriate parties paid with the proceeds of the immediately preceding Draw Request. Bondowner Representative shall not be obligated to consent to a Requisition, as requested in any Draw Request, earlier than ten business days after receipt of a complete supporting package. In the event the Draw Request is approved and the funds from Borrower's Sources are disbursed into the Checking Account, then Borrower shall promptly pay the appropriate parties with the proceeds of the amounts in the Checking Account unless otherwise requested by Borrower and consented to by Bondowner Representative. Borrower may submit Draw Requests to Bondowner Representative no more frequently than once each calendar month, unless Bondowner Representative has given its prior written consent in each instance. Notwithstanding the foregoing, for purposes of accruing interest thereon, the Loan shall be deemed disbursed and made available to Borrower (subject to the terms of this Agreement) upon deposit of the proceeds of the Loan in the Project Fund or in an account of the Bond Fund, as applicable.

(c) Bondowner Representative, at any time, may use any of Borrower's Sources which are on deposit with the Bondowner Representative to pay Loan fees owing to Bondowner Representative, interest on the Loan, fees and expenses of Bondowner Representative's attorneys, title and miscellaneous costs which are payable by Borrower hereunder, and such other sums as may be owing from time to time by Borrower to Bondowner Representative with respect to the Loan, all without further notice to or authorization by Borrower (subject to the requirements of Section 2.03(f) below). These payments may be made, at Bondowner Representative's option, by: (i) debiting the applicable account containing any of Borrower's Sources with the Bondowner Representative or any of its affiliates in the amount of the payments without first depositing that amount into the Checking Account; (ii) disbursing all or any part of the amount of the payments into the Checking Account and then debiting the Checking Account or (iii) invoicing Borrower in the amount of the payments; provided, however, that Bondowner Representative shall provide Borrower with notice of any such debit by Bondowner Representative no later than ten days after the debiting has occurred. For these purposes, Bondowner Representative is not restricted to the line items and cost categories of the Cost Breakdown. Borrower acknowledges that such a use of Borrower's Sources by Bondowner Representative may cause the Loan to become "out of balance," requiring deposits by Borrower into the Borrower's Funds Account or payment to Bondowner Representative of Cash Collateral.

(d) If the Cost Breakdown provides for an undisbursed balance remaining in the interest reserve line item of the Cost Breakdown and all other disbursement conditions have been met, then Bondowner Representative from time to time shall disburse Borrower's Sources with the Bondowner Representative or any of its affiliates to pay interest on the Loan from the interest reserve line item (or the Interest Account, as the case may be).

(e) No disbursements shall be made from the Project Fund unless and until all of the first installment of the Capital Contribution set forth in the Partnership Agreement has been funded for deposit in the Equity Account (except for amounts used to pay for Costs of Issuance) and disbursed by the Bondowner Representative to pay for budgeted

items as provided for in this Agreement. Thereafter, subject to the terms and conditions of this Agreement, disbursements from the Project Fund shall be made until the next Capital Contribution (as defined in Section 2.03(f) below) is payable under the Partnership Agreement, when no further disbursements from the Project Fund shall be made until that Capital Contribution has been fully funded by deposit in the Equity Account and then disbursed in accordance with the terms of this Agreement to pay budgeted items.

(f) In accordance with the terms and provisions of the Partnership Agreement, the Investor Limited Partner shall make its Capital Contributions to and for the Project on the dates and as provided for in the Partnership Agreement (“**Capital Contribution**” or “**Capital Contributions**” as the context may require). The portion of such Capital Contributions attributable to costs of the Project and funded during construction shall be deposited in the Equity Account and thereafter disbursed by the Bondowner Representative upon the satisfaction of the terms of the conditions to disbursement listed in the Disbursement Schedule to pay for items provided for in the initial Cost Breakdown (or the revised Cost Breakdown, if applicable) and as otherwise provided for in this Agreement. Notwithstanding the foregoing, the portion of the Capital Contribution necessary to pay down the Loan pursuant to Section 2.07 of this Agreement and Section 3.01(a)(iii) of the Indenture shall be so applied immediately upon receipt thereof into the Equity Account without regard to the satisfaction of the conditions to disbursement listed in the Disbursement Schedule.

Section 2.04 **Additional Disbursement Conditions.** Bondowner Representative need not approve the disbursement of Borrower’s Sources until Borrower fulfills all conditions of the Loan Documents relating to such disbursement to Bondowner Representative’s satisfaction. Bondowner Representative’s Loan closing conditions and conditions for subsequent disbursements include the matters described in the Disbursement Schedule. Notwithstanding the foregoing, under no circumstances will Bondowner Representative have any duty to Borrower, Guarantor, Investor Limited Partner, the provider of any other Borrower’s Sources, or any other person or entity to enforce the conditions to disbursement set forth in this Agreement or to withhold any disbursement until all applicable conditions have been satisfied. All such conditions are solely and exclusively for the benefit of the Bondowner Representative and may be waived by Bondowner Representative in its sole discretion.

Section 2.05 **No Waiver of Conditions.** Any waiver by Bondowner Representative of a condition of disbursement must be expressly made by Bondowner Representative in writing. If Bondowner Representative makes a disbursement before fulfillment of one or more required conditions, such disbursement shall not be a waiver of such condition with respect to subsequent disbursements, and Bondowner Representative reserves the right to require their fulfillment before making any subsequent disbursements. If all disbursement conditions are not satisfied, Bondowner Representative, without waiving any rights or conditions as to any other or further disbursements, may disburse selectively as to certain items or categories of costs and not others.

Section 2.06 **Conditions to Disbursement for Restoration.** The following shall be conditions precedent to the right of Borrower to obtain disbursement of Casualty Proceeds (as defined in the Indenture) of Casualty which proceeds may be used by Borrower only to restore the portion of the Project subject to such casualty and condemnation (the “**Affected Property**”) following the occurrence of a casualty or condemnation and which proceeds shall be deposited, when received, in a segregated account at the Trustee (“**Restoration Account**”):

(a) no uncured Event of Default (as defined in Section 6.01) shall have occurred and be continuing, and no event which, with the giving of notice or the passage

of time, or both, would be an uncured Event of Default shall have occurred and be continuing;

(b) Bondowner Representative and Issuer shall have received and approved each of the following:

(i) plans and specifications for the reconstruction of the Affected Property;

(ii) copies of all contracts and subcontracts for the reconstruction of the Affected Property;

(iii) if required by Bondowner Representative, payment and performance bonds for the reconstruction of the Affected Property;

(iv) assignments by Borrower to Trustee on behalf of Issuer of each of the plans and specifications described in clause (i) and each of the contracts and subcontracts described in clause (ii) in form and content satisfactory to Bondowner Representative, and consents to such assignment, in form and content satisfactory to Bondowner Representative, duly executed by the contractors and subcontractors; and

(v) a line item budget setting forth, in form and level of detail satisfactory to Bondowner Representative, all costs of reconstruction of the Affected Property in accordance with the plans and specifications described in clause (i) above;

(c) all proceeds of casualty insurance policies or condemnation awards, as the case may be, shall have been received by Bondowner Representative and placed with the Trustee in the Restoration Account;

(d) to the extent that available proceeds or an irrevocable commitment of funds reasonably acceptable to the Bondowner Representative received by Bondowner Representative and placed with the Trustee are insufficient to pay all costs of reconstruction of the affected Property, Borrower shall have delivered the amount of any shortfall, as determined by Bondowner Representative, into the Borrower's Funds Account; and

(e) Bondowner Representative shall have determined that the Project will, following reconstruction, have a fair market value which is at least equal to its value prior to the casualty or condemnation.

If all of the foregoing conditions are satisfied, proceeds held by Trustee in the Restoration Account and funds in the Borrower's Funds Account shall be disbursed subject to the consent of Bondowner Representative and the Issuer, in the same manner and subject to the same conditions (subject to adjustment to reflect the different nature of construction) as applied with respect to the disbursement of the proceeds of the Loan. If the foregoing conditions are not satisfied, or if, after satisfaction of such conditions any proceeds of casualty insurance or condemnation awards remain, all such proceeds shall be remitted to Trustee promptly on account of the outstanding balance on the Note for application to the redemption in whole or in part of the Bonds.

Borrower hereby grants a security interest in each of said accounts to Issuer, and Issuer hereby assigns such security interest to Trustee on behalf of the Bondowner Representative.

Section 2.07 Loan Payments. The Borrower shall pay to the Trustee, one business day prior to the dates set forth below, all amounts due under the Note for principal, premium, if any, and interest. as follows:

(a) During the Construction Term, interest on the Principal Balance calculated at the Applicable Rate shall be due and payable on each Payment Date commencing on the first Payment Date identified in the Indenture and continuing on each Payment Date until the Principal Balance shall be paid in full. The entire Principal Balance, together with all interest accrued and unpaid thereon and all other sums due under the Note shall be due and payable on the First Maturity Date, unless extended pursuant to Section 2.07(b) next following.

(b) Provide further that (i) Extension Conditions have been satisfied and (ii) the Borrower provides the Holder and Bondholder Representative for at least 30 but not more than 90 days' notice prior to the First Maturity Date, maturity of the Note will be extended from the First Maturity Date to the Second Maturity Date. If the term of this Note is extended as provided in this subparagraph (b), the entire Principal Balance, together with all interest accrued and unpaid thereon and all other sums due under the Note, shall be due and payable on the Second Maturity Date, unless extended pursuant to Section 2.07(c) next following.

(c) Provide further that (i) Extension Conditions have been satisfied and (ii) the Borrower provides the Holder and Bondholder Representative for at least 30 but not more than 90 days' notice prior to the Second Maturity Date, maturity of the Note will be extended from the Second Maturity Date to the Third Maturity Date. If the term of this Note is extended as provided in this subparagraph (c), the entire Principal Balance, together with all interest accrued and unpaid thereon and all other sums due under the Note, shall be due and payable on the Third Maturity Date unless extended pursuant to Section 2.07(d) next following.

(d) Provided the Conversion Conditions have been satisfied, the maturity of the Note will be extended to the Permanent Term Maturity Date. If the term of the Note is extended to the Permanent Term Maturity Date, on the Amortization Commencement Date, the Borrower shall make a payment of interest only at the Applicable Rate for interest due in advance from the Amortization Commencement Date to the first day of the month following the Amortization Commencement Date. For the period beginning on the first day of the month following the Amortization Commencement Date and continuing on each Payment Date thereafter throughout the balance of the Permanent Term, the Borrower shall pay monthly installments of principal as set forth in the Amortization Schedule, and shall pay interest at the Applicable Rate. On the Permanent Term Maturity Date, the entire principal balance, together with all accrued interest thereon, shall be due and payable.

(e) Alternate Rate of Interest.

(i) If (A) Bondowner Representative determines that adequate and reasonable means do not exist for ascertaining the LIBO Rate (including because the LIBO Rate is not available or published on a current basis), or (B) Bondowner Representative determines that the LIBO Rate, will not adequately and fairly

reflect the cost to Bondowner Representative of making or maintaining the Loan, then Bondowner Representative shall give notice to Borrower, Issuer and Trustee by electronic communication as promptly as practicable and, until Bondowner Representative notifies Borrower, Issuer and Trustee that the circumstances giving rise to such notice no longer exist, the Applicable Rate shall be a rate per annum equal to the CB Floating Rate minus 1.15%.

(ii) If at any time Bondowner Representative determines that (A) the circumstances set forth in clause (i)(A) have arisen and such circumstances are unlikely to be temporary or (B) the supervisor for the administrator of the LIBO Rate or a Governmental Authority having jurisdiction over Bondowner Representative has made a public statement that the LIBO Rate shall not be used for determining interest rates for loans, then Bondowner Representative shall establish an alternate rate of interest to the LIBO Rate that gives due consideration to the then prevailing market convention at such time. Until an alternate rate of interest shall be determined in accordance with this clause (ii) (but, in the case of the circumstances described in clause (B) of the first sentence of this Section 2.07(e), only to the extent the LIBO Rate is not available or published at such time on a current basis), the Applicable Rate shall be a rate per annum equal to the CB Floating Rate. In the event that any alternate rate of interest established pursuant to this Section 2.07(e) shall be less than zero, such rate shall be deemed to be zero.

(iii) All determinations by Bondowner Representative under this Section 2.07(e) shall be conclusive and binding absent manifest error.

(f) The LIBO Rate is derived from the London interbank offered rate (“LIBOR”). LIBOR is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “IBA”) for purposes of the IBA setting LIBOR. As a result, it is possible that commencing in 2022, LIBOR may no longer be available or deemed an appropriate reference rate upon which to determine the LIBO Rate. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of LIBOR. In the event LIBOR is no longer available (or in certain other circumstances), Section 2.07(e) provides a mechanism for determining an alternative rate of interest. Bondowner Representative will inform Borrower and Trustee in advance of any change to the reference rate upon which the LIBO Rate is based. However, Bondowner Representative does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London Interbank offered rate or other rates in the definition of “LIBO Rate” or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to or produce the same value or economic equivalence as the LIBOR Rate or have the same volume or liquidity as did LIBOR prior to its discontinuance or unavailability.

(g) The Borrower shall notify the Trustee promptly of the receipt of any prepayment of the Note, whether upon acceleration, by reason of application of insurance or condemnation proceeds, optional prepayment or otherwise. If such prepayment results

in revisions to the Amortization Schedule, the Bondowner Representative shall provide the revised Amortization Schedule to the Trustee and the Issuer in accordance with Section 3.05 of the Indenture.

Section 2.08 No Warranty by Issuer. The Borrower agrees that, because the components of the Project have been and are to be designated and selected by it, THE ISSUER HAS NOT MADE AN INSPECTION OF THE PROJECT OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE, WITH RESPECT TO THE SAME OR THE VALUE, CAPACITY, HABITABILITY, LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION, FUTURE PERFORMANCE OR MERCHANTABILITY OR DURABILITY THEREOF OR THE COMPLIANCE THEREOF WITH ANY LEGAL REQUIREMENTS, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE BORROWER. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, THE ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION 2.08 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT.

Section 2.09 Payment of Costs of Issuance by Borrower. The Borrower agrees that it will provide, on the Closing Date, any and all funds required for the prompt and full payment of all Costs of Issuance of the Bonds (which may be from the first installment of the Capital Contribution), including, but not limited to, the following items:

- (a) all legal (including Bond Counsel and the respective counsel to the Borrower, Issuer, Bondowner Representative and Trustee), abstractors', title insurance, financial, engineering, environmental, construction services, appraisal and accounting fees and expenses, administrative fees, printing and engraving costs and other expenses incurred and to be incurred by the Borrower, Issuer, Bondowner Representative and Trustee on or before or in connection with issuance of the Bonds;
- (b) premiums on all insurance required to be taken out and maintained pursuant to this Agreement;
- (c) all mortgage registry fees and recording fees and other taxes, charges, assessments, license or registration fees of every nature whatsoever incurred and to be incurred in connection with this financing;
- (d) all initial fees and expenses of the Trustee, the Paying Agent, the Bond Registrar and the Issuer;
- (e) all fees and expenses for title insurance, survey and related matters; and
- (f) other Costs of Issuance.

Section 2.10 Borrower's Obligations Unconditional. The obligations of the Borrower to perform and observe the agreements on its part contained herein shall be absolute and unconditional and payment of the Loan, additional charges and all other payments required of the Borrower hereunder or under the Note shall be paid without notice or demand and without set off, counterclaim, or defense for any reason and without abatement or deduction or defense. The Borrower will not suspend or discontinue any such payments, and will perform and observe all of its other agreements in this Agreement, and, except as expressly permitted with respect to prepayment of the Note, will not terminate this Agreement for any cause, including, but not limited to, any acts or circumstances that may constitute failure of consideration, destruction or damage to the Project or the Borrower's business, the taking of the Project or the Borrower's business by condemnation or otherwise, the lawful prohibition of the Borrower's use of the Project or the Borrower's business, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement, the lack of right, power or authority of the Issuer to enter into this Agreement, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the Issuer or the Trustee, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State or any political subdivision thereof, or failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the payment of the Loan and other amounts payable by the Borrower hereunder or under the Note shall be paid in full when due without any delay or diminution whatever.

ARTICLE III BORROWER COVENANTS

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

Section 3.01 **Commencement and Completion of Construction.** Borrower shall not commence physical construction or rehabilitation of the Project unless and until Borrower shall have received Authorization to Proceed (as defined below). The recordation of the Mortgage shall be evidence of authorization by the Bondowner Representative to proceed with construction or rehabilitation (“**Authorization to Proceed**”). Borrower acknowledges and agrees that, upon receipt of the Authorization to Proceed, it shall promptly commence and thereafter it shall diligently continue construction to completion. Borrower shall complete the Project no later than [14 months from closing], subject to extension as set forth below (“**Completion Date**”). Borrower shall obtain a final, unconditional certificate of occupancy or the equivalent for the Project as soon as is permitted under local laws and regulations; but in all events prior to the Completion Date. In addition, Borrower shall record all appropriate notices of completion, and obtain certificates of occupancy, if necessary, or similar permits regarding completed apartment units and other spaces within the Project as necessary or required to permit the lawful use and occupancy of each of such units and spaces.

Section 3.02 **Requirements.** Borrower shall construct the Project in a good and workmanlike manner in accordance with sound building practices and all applicable governmental and insurance requirements, in accordance with the Plans and Specifications and the required actions or recommendations of any soils and environmental reports submitted to Bondowner Representative or required by Bondowner Representative pursuant thereto. Borrower shall comply with all existing and future laws, regulations, codes, orders, building restrictions and requirements of, and all agreements with and commitments to, all governmental authorities having jurisdiction over the Project, and private parties with rights with respect to the Project, including, without limitation, those pertaining to the construction, sale, lease, rental or financing of the Project and all requirements necessary to obtain and maintain the LIHTCs allocated to the Project (collectively, the “**Requirements**”).

Section 3.03 **Changes.**

(a) Borrower shall obtain Bondowner Representative’s prior written approval of any change in the Plans and Specifications or any other Requirements which:

(i) might adversely affect the value of Issuer’s, Trustee’s, or Bondowner Representative’s security; or

(ii) regardless of cost, is a material change in structure, design, exterior appearance, square footage, or function of the Project; or

(iii) would cause an increase in any line item or category of the Cost Breakdown or would cause the Loan to be “out of balance”; or

(iv) would alter or otherwise not comply with any of the Requirements (as such would affect the requirements under the Regulatory Agreement, consent of the Issuer shall also be required); or

(v) subject to extension as set forth below, can reasonably be expected to delay completion of all of the Project beyond the Completion Date; or

(vi) is otherwise required by the terms and provisions of the Loan Documents.

(b) Borrower shall obtain Bondowner Representative's prior written approval of any change in any work or materials for the Project which, together with all prior changes, exceeds an absolute value (whether by increasing or decreasing construction costs) of \$100,000.00 in aggregate amount. Also, the prior written approval of Bondowner Representative must be obtained for any single change in any work or materials (whether positive or negative) which exceeds \$50,000.00 in amount or which causes any line item of the Cost Breakdown to be increased or decreased by ten percent or more.

(c) Borrower shall obtain Bondowner Representative's prior written approval of all material changes in the scope, schedule, payment terms, performance requirements, or general conditions or any other contracts entered into by Borrower, the general partner of Borrower, or any of their affiliates pertaining to the design or construction of the Project, including any that may be described in Exhibit "G".

(d) Borrower shall obtain from the appropriate individuals or entities all approvals of any changes in the Plans and Specifications, work, materials or contracts that are required by any of the Requirements, or under the terms of any lease (including subleases), loan commitment or other agreement relating to the Project.

(e) Borrower shall provide Bondowner Representative for Bondowner Representative's approval copies of all applicable change orders, together with all additional documents that Bondowner Representative may require in order to evaluate a request for approval of a proposed change of a type described above. These documents shall include the following: (i) a written description of the proposed change and related working drawings; and (ii) a written estimate of the cost of the proposed change and the time necessary to complete it. Borrower acknowledges that delays may result from Bondowner Representative's processing of change orders, and agrees that so long as any delays caused by Bondowner Representative are not unreasonable in duration, they shall not affect Borrower's obligation to complete all of the Project on or before the Completion Date.

Section 3.04 Construction Information and Verification.

(a) Within 15 days after receiving a request from Bondowner Representative, Borrower shall deliver to Bondowner Representative any and all of the following information and documents that Bondowner Representative may specify, all in forms acceptable to Bondowner Representative:

(i) A current, complete and correct list showing the name, address and telephone number of each contractor, subcontractor and material supplier engaged in connection with the construction of the Project, and the total dollar amount of each contract and subcontract (including any changes) together with the amounts paid through the date of the list.

(ii) True and correct copies of the most current versions of all executed contracts and subcontracts identified in the list described above, including any changes.

(iii) A current construction progress schedule showing the progress of construction and the projected sequencing and completion times for uncompleted work, all as of the date of the schedule.

(iv) Evidence that the Requirements have been fully satisfied.

(v) Any update to any item described above.

(b) Borrower authorizes Bondowner Representative to contact any subcontractor, material supplier, surety or any governmental authority or agency, to verify any information regarding the Project. All contracts and subcontracts relating to construction of the Project must require the disclosure of such information to Bondowner Representative. Bondowner Representative may disapprove any contractor, subcontractor, material supplier, surety or other party whom Bondowner Representative in its reasonable judgment may deem financially or otherwise unqualified; however, the absence of any such disapproval shall not constitute a representation of qualification.

(c) Based on the Requirements or any construction progress schedule or other materials submitted by Borrower or otherwise available to Bondowner Representative, if Bondowner Representative reasonably determines that all or a portion of the Project will not be completed by the Completion Date, Bondowner Representative may request Borrower in writing to reschedule the work of construction to permit timely completion. Within 15 days after receiving such a request from Bondowner Representative, Borrower shall deliver to Bondowner Representative a revised construction progress schedule showing completion of the Project within the times required by this Agreement.

Section 3.05 Permits, Licenses and Approvals. Borrower shall properly obtain, comply with and keep in effect all permits, licenses, agreements (including development agreements) and approvals which are required to be obtained from governmental bodies in order to construct, occupy, operate, rent or lease the Project. Borrower shall promptly deliver copies of all such permits, licenses and approvals to Bondowner Representative and, upon request, the Issuer. Notwithstanding anything to the contrary in any of the Loan Documents, Borrower shall not materially modify, amend, change, supplement or terminate any of such permits, licenses, agreements and approvals without Bondowner Representative's consent, which consent may be withheld in Bondowner Representative's reasonable discretion.

Section 3.06 Purchase of Materials; Conditional Sales Contracts; Stored Materials. Borrower shall not purchase or contract for any materials, equipment, furnishings, fixtures or articles of personal property to be placed or installed in any of the Project under any security agreement or other agreement where the seller reserves or purports to reserve title or the right of removal or repossession, or the right to consider them personal property after their incorporation in the work of construction, unless Bondowner Representative in each instance has authorized Borrower to do so in writing.

No disbursements shall be made for materials that are to be stored on the Project or offsite ("**Stored Materials**") unless and until Bondowner Representative's receipt of such evidence deemed necessary or advisable by Bondowner Representative in its sole and reasonable judgment that (i) Borrower has sole ownership of the Stored Materials, (ii) the Stored Materials are included in the coverage of the insurance policies required by Section 3.09, and (iii) (A) the Stored Materials are reasonably satisfactorily stored on

the Land to protect against theft or damage, or (B) if the Stored Materials are not stored on the Land, (1) evidence reasonably satisfactory to Bondowner Representative that the Stored Materials are stored in a bonded warehouse or storage yard reasonably approved by Bondowner Representative, and the warehouse or yard has been notified that Bondowner Representative has a security interest in the subject Stored Materials, and (2) if required by Bondowner Representative, Bondowner Representative shall have received from Borrower the original warehouse receipt.

Section 3.07 Site Visits; Right To Stop Work. Bondowner Representative and its agents and representatives shall have the right at any reasonable time to enter and visit the Project for the purposes of performing an appraisal, observing the work of construction and examining all materials, plans, specifications, working drawings and other matters relating to the construction. All such site visits shall be conducted in a manner that does not unnecessarily interfere with the progress of the construction. For purposes of these site visits, Borrower shall at all times maintain a full set of working drawings at the construction site. Bondowner Representative and Issuer shall also have the right to examine, copy at its own cost and audit the books, records, accounting data and other documents of Borrower and its contractors which relate to the Project or construction of the Project.

If Bondowner Representative reasonably determines that any work or materials fail to conform to the Requirements, the approved Plans and Specifications or sound building practices, Bondowner Representative may require the work to be stopped and withhold disbursements until the matter is corrected. Borrower shall promptly correct the work to Bondowner Representative's satisfaction. No such action by Bondowner Representative shall affect Borrower's obligation to complete each element of the Project within the time required by this Agreement.

Bondowner Representative is under no duty to visit the construction site, or supervise or observe construction or examine any books or records. Any site visit, observation or examination by Bondowner Representative shall be solely for the purpose of protecting Bondowner Representative's security and preserving Bondowner Representative's rights and interests under the Loan Documents. No site visit, observation or examination by Bondowner Representative shall impose any liability on Bondowner Representative or result in a waiver of any default of Borrower. In no event shall any site visit, observation or examination by Bondowner Representative be a representation that there has been or shall be compliance with the Plans and Specifications, that the construction is free from defective materials or workmanship, or that the construction complies with the Requirements or any other applicable governmental law, regulation or ordinance.

Section 3.08 Signs. At Bondowner Representative's request, Borrower shall post on the Project Bondowner Representative's standard signs, at Borrower's sole cost and expense, for the purpose of identifying Bondowner Representative as the construction lender and shall use its best efforts to identify Bondowner Representative in publicity concerning the Project.

Section 3.09 Insurance. Borrower must provide, maintain and keep in force at all times such casualty and liability insurance as is required under the Mortgage.

Section 3.10 Cooperation. Borrower shall cooperate at all times with Bondowner Representative in bringing about the timely completion of each element of the Project, and Borrower shall resolve all disputes arising during the work of construction in a manner which shall allow work to proceed expeditiously.

Section 3.11 Payment of Expenses. Borrower shall pay Issuer's and Bondowner Representative's costs and expenses incurred in connection with the making, disbursement and administration of the Loan, as well as any revisions, extensions, renewals, modifications or "workouts" of

the Loan, and in the exercise of any of Issuer's and Bondowner Representative's rights or remedies under this Agreement. Such costs and expenses include, without limitation, title insurance, recording and escrow charges, survey charges, hazard insurance premiums, bond premiums, fees for appraisals and appraisal reviews, architectural and engineering reviews and services, construction services, cost engineering, environmental reviews and services, zoning and entitlement reviews and services, mortgage taxes, legal expenses and any other fees and costs for services rendered to Issuer or Bondowner Representative in connection with the Loan, regardless of whether such services are furnished by Bondowner Representative's employees or agents or independent contractors. Borrower acknowledges that the loan and commitment fees, if any, for the Loan do not include amounts payable by Borrower under this subsection. Without limiting the generality of the foregoing, Borrower shall pay the construction inspection/administrative fee ("Construction Inspection Fee") to Bondowner Representative or, at Bondowner Representative's direction, directly to the construction consultant. The deposits listed in the preceding sentence will be credited to the actual costs incurred by Bondowner Representative for the respective items listed.

Section 3.12 Loan Fees. Concurrently with recordation of the Mortgage, Borrower shall pay to Bondowner Representative a Loan origination fee equal to **[the principal amount of the Note multiplied by 0.50%]**. All of the amounts set forth in this section are nonrefundable when paid.

Section 3.13 Financial and Other Information. Borrower shall promptly furnish to Bondowner Representative such information regarding the business affairs, financial condition, assets, liabilities, operations, and transactions of Borrower and the Project, as Bondowner Representative may reasonably request, and, without limiting the foregoing, furnish (or cause to be furnished) to Bondowner Representative the information provided in Section 4.13 of the Mortgage.

Section 3.14 Notices by Borrower. Borrower shall promptly notify Bondowner Representative and Issuer in writing of:

(a) any litigation affecting Borrower or any general partner of Borrower where the amount claimed is \$25,000 or more.

(b) any written communication that Borrower receives from any governmental, judicial or legal authority, giving notice of any claim or assertion that the Project or the Project fail in any material respect to comply with any of the Requirements or any other applicable governmental law, regulation, ordinance or guidance.

(c) any material adverse change in the physical condition of the Project (including any damage suffered as a result of earthquake, fire or flood) or the financial condition or operations of Borrower or any constituent general partner of Borrower.

(d) any default after the expiration of any applicable notice and cure period by a contractor or, to Borrower's actual knowledge, with respect to any subcontractor, material supplier or surety, or any material adverse change in the financial condition or operations of any of them.

(e) any adoption of a resolution of necessity in connection with actual or proposed condemnation or taking for public or private use which affects all or part of the Project or any interest in it.

(f) any default by Borrower under any of the Loan Documents, the Permitted Encumbrance Documents or any of the Requirements to which Borrower has knowledge.

(g) any material default by any of Borrower's partners under the Partnership Agreement of which Borrower has knowledge.

(h) any actual or overtly threatened exercise by any third party of any right or remedy on account of any default or alleged default of Borrower under or with respect to any loan, contract or agreement to which Borrower is a party, and which could have a material adverse effect upon Borrower, the Project or the rehabilitation of the Project.

(i) any actual or proposed change in Borrower's name or any trade name in which it does business.

Section 3.15 Keeping Guarantor Informed. Borrower shall keep any guarantor who or which has furnished a guaranty of the Loan informed of all material matters with respect to the Project and the Loan.

Section 3.16 Income from Project. Before using any income it may derive from the Project for any other purpose, Borrower shall first apply all such income to pay costs and expenses associated with the ownership, management, maintenance, operation and leasing of the Project, including any amounts then due and payable under the Loan Documents.

Section 3.17 Performance of Acts. Upon request by Bondowner Representative, Borrower shall perform all acts which may be necessary or advisable to perfect any lien or security interest provided for in the Loan Documents or to carry out the intent of the Loan Documents.

Section 3.18 Indemnity Regarding Construction and Other Risks.

(a) **WITHOUT LIMITING THE INDEMNITY PROVIDED IN ARTICLE VII HEREOF OR IN THE REGULATORY AGREEMENT, BORROWER INDEMNIFIES AND HOLDS THE INDEMNIFIED PARTIES (AS DEFINED BELOW) HARMLESS FROM AND AGAINST ANY AND ALL INDEMNIFIED COSTS (AS DEFINED BELOW) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT (INCLUDING ANY CLAIMS FOR ANY BROKERAGE FEE, FINDER'S FEE, OR SIMILAR FEE) AND CONSTRUCTION OF ANY IMPROVEMENTS ON THE PROJECT, INCLUDING ANY DEFECTIVE WORKMANSHIP OR MATERIALS; OR ANY FAILURE TO SATISFY ANY REQUIREMENTS OF ANY LAWS, REGULATIONS, ORDINANCES, GOVERNMENTAL POLICIES OR STANDARDS, REPORTS, LEASES OR DEVELOPMENT AGREEMENTS THAT APPLY OR PERTAIN TO ANY CONSTRUCTION ON THE PROJECT; OR ANY FAILURE TO SATISFY ANY REQUIREMENTS; OR BONDOWNER REPRESENTATIVE'S PERFORMANCE OF ANY ACT PERMITTED UNDER THE LOAN DOCUMENTS (EXCLUDING BONDOWNER REPRESENTATIVE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT); OR BREACH OF ANY REPRESENTATION OR WARRANTY MADE OR GIVEN BY BORROWER TO ANY OF THE INDEMNIFIED PARTIES OR TO ANY PROSPECTIVE OR ACTUAL BUYER OR LESSEE OF ALL OR ANY PORTION OF THE PROJECT; OR ANY CLAIM OR CAUSE OF ACTION OF ANY KIND BY ANY PARTY THAT ANY INDEMNIFIED PARTY IS LIABLE FOR ANY ACT OR OMISSION OF BORROWER OR ANY OTHER PERSON OR ENTITY IN CONNECTION WITH**

THE OWNERSHIP, SALE, LEASING, CONSTRUCTION, OPERATION OR DEVELOPMENT OF THE PROJECT.

(b) Upon demand by any Indemnified Party, Borrower shall defend any investigation, action or proceeding involving any Indemnified Costs which is brought or commenced against any Indemnified Party, whether alone or together with Borrower or any other person, all at Borrower's own cost and by counsel to be approved by the Indemnified Party in the exercise of its reasonable judgment. In connection therewith, Borrower shall pay for the cost and expense of any counsel hired or engaged by an Indemnified Party to protect its interest and/or to oversee any defense of the Indemnified Party by Borrower and its counsel. In the alternative, any Indemnified Party may elect to conduct its own defense at the expense of Borrower.

(c) "Indemnified Parties" means and includes the Trustee, its past, present and future directors, commissioners, officers, members, counsel, employees, attorneys and agents, individually and collectively, and the Bondowner Representative, its parent, subsidiary and affiliated companies, assignees of any of Bondowner Representative's interest in the Loan or the Loan Documents, owners of other interests in the Loan or the Loan Documents, any purchasers of the Project at any foreclosure sale or from Bondowner Representative or any of its affiliates, and the officers, directors, employees and agents of each of them.

(d) "Indemnified Costs" means all actual or threatened liabilities, claims, actions, causes of action, judgments, orders, damages, costs, expenses, fines, penalties and losses (including sums paid in settlement of claims and all consultant, expert and legal expenses), including those incurred in connection with any investigation of site conditions or any remedial, removal or restoration work (whether of the Project or any other property), or any resulting damages, harm or injuries to the person or property of any third parties or to any natural resources. Borrower shall not settle or compromise a claim without the approval of each Indemnified Party.

(e) Notwithstanding any provision to the contrary set forth in any Loan Document, to the fullest extent permitted by law, the obligations created by this Section shall survive repayment of the Loan and foreclosure of the Mortgage or deed in lieu thereof. Following such repayment or foreclosure, all obligations of Borrower under this Section shall be unsecured obligations of Borrower to the extent they are either unknown or unliquidated at the time of such repayment or foreclosure.

Section 3.19 **Operation of the Project.** Borrower shall at all times operate the Project as an affordable housing apartment rental facility in compliance with all Requirements.

Section 3.20 **Preservation of Existence.** Borrower shall preserve and maintain its existence, and all material licenses, rights, franchises and privileges in the jurisdiction of its formation and all authorizations, consents, approvals, orders, licenses, permits, or exemptions from, or registrations with, any governmental agency that are necessary for the transaction of its business, including all notices, permits or licenses, if any, filed or obtained with regard to compliance with environmental laws, and qualify and remain qualified to transact business in each jurisdiction in which such qualification is necessary in view of its business or the ownership or leasing of its properties, including the Project.

Section 3.21 **Low Income Housing Tax Credits.** Borrower shall perform all actions and shall meet all requirements necessary or desirable to maintain the allocation of LIHTCs to it.

Section 3.22 Investor Limited Partner’s LIHTC Obligations. Investor Limited Partner’s obligations to make Capital Contributions to Borrower in such amounts and at such times as set forth in the Partnership Agreement shall remain in full force and effect and free from default at all times. The Partnership Agreement shall not be materially amended or modified, or terminated, without Bondowner Representative’s prior written consent, which consent shall not be unreasonably withheld or delayed. For the purposes of this Section 3.22, modifications to the Partnership Agreement which do not affect (a) any limited partner’s Capital Contributions, (b) any collateral or security that secures the Loan, or (c) the Borrower’s ability to complete the Project, will not be considered material and will not require any prior written consent of the Bondowner Representative. Substitution or replacement of the general partner in accordance with the terms of the Partnership Agreement should be subject to the Bondowner Representative’s reasonable consent, provided such consent will not be required if the Investor Limited Partner (or an affiliate thereof) becomes the general partner. Notwithstanding anything to the contrary herein, any limited partner of the Borrower may transfer its limited partnership interest to an affiliate of the limited partner without the prior consent of the Bondowner Representative; provided, such transfer must comply with the applicable requirements in Section 10 of the Regulatory Agreement.

Section 3.23 Management Agreement and Management Plan. Any management company for the Project, and the management agreement with such management company shall be subject to the prior written approval of Bondowner Representative, which approval shall not be unreasonably delayed or withheld; provided, however, that the Bondowner Representative initially approves Alpha-Barnes Real Estate Services, LLC as the management company . The management agreement shall not be amended, modified, supplemented, terminated or canceled without the prior written approval of Bondowner Representative, which approval shall not be unreasonably delayed or withheld. Borrower shall obtain Bondowner Representative’s approval of Borrower’s management plan for the Project, which plan shall provide for training of the onsite staff in full compliance with federal, state and local affordable housing requirements applicable to the Project.

Section 3.24 Negative Pledge; No Sale.

(a) The Borrower will not create, incur, assume or permit to exist any mortgage, pledge, security interest, encumbrance or other lien upon the Project or any property, tangible or intangible, now owned or hereafter acquired (including without limitation property leased to or being acquired by the Borrower under capital leases or installment sale agreements), by the Borrower (the sale with recourse of receivables or any “sale and lease back” of any fixed assets being deemed to be the giving of a lien thereon for money borrowed), other than Permitted Encumbrances.

(b) Other than the making of residential leases, the Borrower shall not sell, assign, transfer, convey or otherwise dispose of the Project, or any part thereof, or permit or consent to a sale without in each instance complying with the applicable requirements of the Regulatory Agreement.

Section 3.25 Security Interest in Accounts. Borrower hereby grants a security interest in the Borrower’s Funds Account, any Cash Collateral and the Checking Account, to Issuer to secure all of Borrower’s obligations under the Loan Documents, and Issuer hereby assigns such security interest to Trustee on behalf of the Bondowners.

Section 3.26 [Reserved].

Section 3.27 Payment of All Fees and Expenses. Borrower agrees to pay the Issuer’s Fees and the Trustee’s Ordinary Fees and Expenses at the time such fees are due and to pay within 30 days after

receipt of request for payment thereof. Borrower will also promptly pay all costs and expenses incurred by Issuer and/or Trustee in connection with the making, disbursement and administration of the Loan and the issuance and administration of the Bond, including, without limitation, the Extraordinary Fees and Expenses. Such costs and expenses shall be paid by Borrower in addition to the Issuer's Fees and Trustee's Ordinary Fees and Expenses, which Borrower shall pay as and when required by the Indenture and this Agreement. Borrower will also pay the fees and expenses of any Rebate Analyst engaged with respect to the Bonds, and will pay any amounts due and owing to the U.S. Treasury as rebate payments.

Section 3.28 **No Purchase of Interest in Note.** Borrower shall not, nor shall Borrower permit any Related Person to, pursuant to any arrangement, formal or informal, purchase any interest in the Note or the Bonds.

Section 3.29 **Note Payments, Issuer and Trustee Fees.** Borrower shall remit all Note payments representing principal, premium, if any, and interest on the Loan to Trustee and, if any such amount is paid to Bondowner Representative, Bondowner Representative shall forward any such amounts received by Bondowner Representative to Trustee immediately. All amounts payable pursuant to Section 3.27 hereof shall, likewise, be paid directly to Trustee. Other amounts payable hereunder shall, unless otherwise directed by Issuer, be payable to Trustee (other than amounts of the Capital Contribution deposited in the Equity Account as provided for in this Agreement).

Section 3.30 **Tax-Exempt Status.**

(a) The Borrower represents, warrants and covenants that it shall not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the excludability of the interest on the Bonds from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Exemption Agreement, which is incorporated herein as if set forth fully herein.

(b) The Borrower will, on a timely basis, provide the Issuer with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Exemption Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Issuer to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Trustee as are required of it under the Tax Exemption Agreement. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture and this Loan Agreement.

(c) The Borrower covenants that, notwithstanding any other provision of this Loan Agreement or any other instrument, the Borrower will take no action, nor shall it direct the Trustee to take any action, to invest or use of proceeds of the Bonds, or any other moneys that may arise out of or in connection with this Loan Agreement, the Indenture or the Project that would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code. In addition, the Borrower covenants and agrees to comply with the requirements of Section 148(f) of the Code as it may be applicable to the Bonds or the proceeds derived from the sale of the Bonds or any other moneys that may arise out of, or in connection with, this Loan Agreement, the Indenture or the Project throughout the term of the Bonds. No provision of this Loan Agreement shall be construed

to impose upon the Trustee any obligation or responsibility for compliance with Section 148 of the Code.

(d) Neither the Borrower nor any “related party” to the Borrower within the meaning of Section 1.150-1(b) of the Regulations is, or will be, a party to any agreement, formal or informal, pursuant to which it has or will purchase any of the Bonds in an amount related to the amount of the Loan made to the Borrower pursuant to this Agreement unless the Borrower or such related party provides a Favorable Opinion of Bond Counsel to the Issuer, the Trustee and the Controlling Person.

Section 3.31 **[Reserved].**

Section 3.32 **Issuer’s Fees.** The Borrower agrees to remit payments of the Issuer’s Fees when due, to the Trustee as provided in Section 5.03(c) of the Indenture.

Section 3.33 **Financial & Operating Information.** Borrower shall promptly furnish to Bondowner Representative such information regarding the business affairs, financial condition, assets, liabilities, operations, and transactions of Borrower and the Project, as Bondowner Representative may reasonably request, and, without limiting the foregoing, furnish (or cause to be furnished) to Bondowner Representative the following:

(a) Within 30 days from the end of each calendar quarter (beginning with the first calendar quarter after the first calendar quarter ending after leasing of the Project has commenced) (including the last calendar quarter of each calendar year), an unaudited financial statement showing the financial condition of Borrower at the close of the most recently completed calendar quarter, signed by a duly authorized officer of the general partner of Borrower, which financial statement shall include a balance sheet, income statement, operating statement (which may be prepared by Borrower’s management company), a summary report of monthly rent collections (including a rent roll identifying tenants by name and unit of occupancy), a report detailing the total number of units occupied and vacant as of the end of that calendar quarter, the current quarter’s budget, year to date activity, year to date budget, a reconciliation of net operating income for that quarter, a monthly activity or traffic report, and all other matters as Bondowner Representative may reasonably request. The unaudited financial statements to be delivered under this subsection shall be accompanied by an operating statement prepared by the management company on a form and in a manner satisfactory to Bondowner Representative and a certificate signed by a duly authorized representative of the general partner of Borrower, certifying that a review of the activities of Borrower during the period covered by such financial statements has been made under his or her supervision with a view to determining whether Borrower has kept, observed, performed, and fulfilled all of its obligations under the Loan Documents and that to the best of his or her knowledge, Borrower is not at the time in default under the Loan Documents, or, if to his or her knowledge Borrower shall be in default, specifying any such default and the nature and status thereof;

(b) As soon as available, and in any event within 120 days from the end of Borrower’s fiscal year (beginning with the year ending on December 31, 2019), an audited financial statement of Borrower prepared by an independent, third party accounting firm reasonably acceptable to Bondowner Representative, showing the financial condition of Borrower at the close of the most recently completed fiscal year and the results of operations during such fiscal year, which financial statements shall include a balance sheet,

income statement, a statement of contingent liabilities, and statement of cash flows (sources and uses) and statement of compliance by Borrower and the Project with all requirements maintaining the Low Income Tax Credit allocated to the Project;

(c) As soon as available, and in any event within 120 days from the end of the General Partner's fiscal year (beginning with the year ending on December 31, 2019), an audited financial statement for such entity, prepared by an independent third party accounting firm acceptable to Bondowner Representative, which shall include without limitation, a balance sheet, income statement, statement of cash flows, and a statement of contingent liabilities and evidence of compliance by each such entity with the requirements of the Loan Documents;

(d) Promptly after Bondowner Representative's written request thereof, copies of Borrower's and each Guarantor's most recently filed federal income tax returns and all requests for the extension to the filing thereof;

(e) Within 60 days from the end of each fiscal year of Borrower, Borrower shall provide an annual budget for the Project prepared in a manner satisfactory to Bondowner Representative, which shall in any event include annual operating and capital expenditure budgets; and

(f) Within 30 days after receipt, Borrower shall provide with respect to Borrower or the Project, the results of any federal, state, local, or other governmental audit or inspection, including, but not limited to, those related to compliance, property condition, operations, or financial reporting.

Section 3.34 Compliance with Texas Government Code. The Borrower and Bondowner Representative each hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent either of this Loan Agreement or the Bond Purchase Agreement is a contract for goods or services, will not boycott Israel during the term of this Loan Agreement or the Bond Purchase Agreement, and such representation is hereby incorporated by reference into each of such Agreements. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Borrower and Bondowner Representative each understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the respective entity and exists to make a profit.

The Borrower and Bondowner Representative each represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Borrower, the Bondowner Representative and each of such entity's parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Borrower and Bondowner Representative each understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the respective entity and exists to make a profit.

ARTICLE IV LEASES

Section 4.01 **Standard Form Lease.** Borrower shall submit to Bondowner Representative for its written approval a standard form of residential lease to be used for leasing of the Project, (the "**Standard Lease**"). The Standard Lease shall comply with all applicable Requirements. Borrower shall revise the Standard Lease from time to time as reasonably necessary to comply with any change in the Requirements and shall promptly furnish to Bondowner Representative a copy of the revised Standard Lease.

Section 4.02 **Pro Forma Schedules.** Borrower shall also submit for Bondowner Representative's written approval pro forma schedules (the "**Pro Forma Schedules**") stating substantially the following information and projections:

(a) A listing of the rental rates for each apartment (including the maximum rental rate permitted by the Requirements or contract rents set forth in any Housing Assistance Payment Contract with HUD for the Property). Such listing shall break out units by bedroom and bathroom count, and by unit square footage, as well as by affordability levels. The listing shall provide the maximum rent under an applicable federal program, the utility allowance, and the net rent for each unit type. The listing shall also address the rental information regarding the market rate units and the managers' units. Rental rates should be adjusted to an effective rent, if necessary, to be net of any rental concessions in the form of free rent.

(b) A breakdown of the calculation of the utility allowances in a format acceptable to the Bondowner Representative.

(c) A calculation of total annual potential gross income acceptable to the Bondowner Representative. Such summary shall include: aggregate annual rent for all units; total projected annual rental subsidy under any Housing Assistance Payment Contract with HUD or similar agreement; and a breakdown of income from laundry facilities, garages, and other income. Commercial income, if any, shall be addressed separately.

(d) A detailed breakdown of the annual residential operating expenses, including annual replacement reserves. Commercial expenses, if any, shall be addressed separately.

(e) A 15 year stabilized cash flow for income and expenses, noting date of stabilization, and including debt service and a debt service coverage ratio for each year.

(f) If the Project is not yet stabilized at rates complying with the Requirements or at such contract rents set forth in any Housing Assistance Payment Contract with HUD for the Property, a monthly lease up schedule through the projected date of stabilization.

Section 4.03 **Leasing Program.** If requested by Bondowner Representative, Borrower shall submit to Bondowner Representative for its written approval Borrower's initial narrative leasing program for the marketing and leasing of the Project, with a budget for the marketing and advertising costs necessary to achieve stabilized occupancy (the "**Leasing Program**"). Borrower shall update and revise the Leasing Program from time to time, subject to the approval of Bondowner Representative and, as may be necessary or desirable to respond to or anticipate any market or other conditions, provided that at all times Borrower shall have in place and shall implement a modified Leasing Program sufficient to ensure the full repayment of the Loan on or before the maturity of the Loan.

Section 4.04 **No Changes.** Borrower shall not materially modify the approved Standard Lease or adversely deviate from the approved Pro Forma Schedules or the Leasing Program without Bondowner Representative's prior written consent in each instance.

Section 4.05 **Landlord's Obligations.** Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Project. If any tenant at any time claims any breach of landlord's obligations and the amount of such claim (in excess of available insurance coverage) is \$20,000 or more, Borrower shall promptly notify Bondowner Representative and Issuer of such claim.

ARTICLE V REPRESENTATIONS AND WARRANTIES

Section 5.01 **Reaffirmation.** Borrower promises that each representation and warranty set forth below is true, accurate and correct as of the date of this Agreement. Each Draw Request, as defined in Exhibit "E", shall be deemed to be a reaffirmation of each and every representation and warranty made by Borrower in this Agreement.

Section 5.02 **Authority.** To the best of Borrower's knowledge, Borrower has complied with any and all laws and regulations concerning its organization, existence and the transaction of its business. Borrower has the right and power to acquire and construct the Project and carry out all other obligations as contemplated in the Loan Documents.

Section 5.03 **Compliance.** Borrower is familiar and has complied with all of the Requirements, as well as all other applicable laws, regulations and ordinances relating to the Project. Borrower has properly obtained, or will when necessary for purposes of this Agreement obtain, all permits, licenses and approvals necessary to construct, rehabilitate, occupy, operate, market and lease or sell the Project in accordance with all Requirements, including those pertaining to zoning, and, upon request, Borrower will deliver true and correct copies of them to Bondowner Representative.

Section 5.04 **Enforceability.** Borrower is authorized to execute, deliver and perform under the Loan Documents. Those documents are valid and binding obligations of Borrower.

Section 5.05 **No Violation.** To the best of Borrower's knowledge, Borrower is not in violation of any provision of the Loan Documents or of any law, regulation or ordinance, or any order of any court or government entity. To the best of Borrower's knowledge, no provision or obligation of Borrower contained in any of the Loan Documents violates any of the Requirements, any other applicable law, regulation or ordinance, or any order or ruling of any court or governmental entity. No such provision or

obligation conflicts with, or constitutes a breach or default under, any agreement binding or regulating the Project.

Section 5.06 No Claims. There are no claims, actions, proceedings or investigations pending against Borrower or, to Borrower's knowledge, affecting the Project except for those previously disclosed by Borrower to Bondowner Representative and Issuer in writing. To the best of Borrower's knowledge, there has been no threat of any such claim, action, proceeding or investigation, except for those previously disclosed by Borrower to Bondowner Representative and Issuer in writing.

Section 5.07 Financial Information. All financial information which has been and will be delivered to Bondowner Representative or Issuer, including, without limitation, all information relating to the financial condition of Borrower or any of Borrower's partners or the Project, fairly and accurately represents the financial condition being reported on as of its date. All such information was prepared in accordance with generally accepted accounting principles consistently applied, unless otherwise noted in the information provided or disclosed to the Bondowner Representative or the Issuer. There has been no material adverse change in any financial condition reported at any time to Bondowner Representative or Issuer.

Section 5.08 Accuracy. To the best of Borrower's knowledge, all reports, documents, instruments, information and forms of evidence which have been delivered to Bondowner Representative concerning the Loan or required by the Loan Documents are accurate, correct and sufficiently complete to give Bondowner Representative and Issuer true and accurate knowledge of their subject matter. To the best of Borrower's knowledge, none of them contains any material misrepresentation or omission.

Section 5.09 Loan in Balance; Adequacy of Loan. The Loan is "in balance" and the disbursed Loan funds, together with any sums provided or to be provided by Borrower as shown in the cost breakdown or deferral of Development Fee, are sufficient, in view of all facts and circumstances known to or reasonably foreseeable by Borrower, to acquire, construct, and equip the Project and to accomplish the purposes contemplated by the Loan Documents.

Section 5.10 Taxes. Borrower has filed all required state, federal and local income tax returns and has paid all taxes which are due and payable. Borrower knows of no basis for any additional assessment of taxes.

Section 5.11 Utilities. All utility services, including gas, water, sewage, electrical and telephone, which are necessary to develop and occupy the Project, are available at or within the boundaries of the Project. In the alternative, Borrower has taken all steps necessary to assure that all utility services will be available upon completion of the Project.

Section 5.12 Indenture. The Indenture has been submitted to Borrower for its examination, and Borrower acknowledges, by execution of this Agreement, that it has reviewed the Indenture and that it accepts each of its obligations expressed or implied thereunder.

Section 5.13 Regulatory Agreement. The Project is, and will be, in compliance with all requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code. Borrower shall cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code. All leases will comply with all applicable laws and the Regulatory Agreement. The Project, when constructed, will meet the requirements of this Agreement and the Regulatory Agreement and any applicable requirements of the Act and the Code.

Section 5.14 No Reliance on Issuer or Bondowner Representative. Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or Issuer or Bondowner Representative is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project and its interests therein; and that it has not relied on Issuer or Bondowner Representative for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Agreement or otherwise relied on Issuer or Bondowner Representative in any manner.

Section 5.15 [Reserved].

Section 5.16 Interest in the Project. Borrower intends to hold the Project for its own account and has no current plans to sell and has not entered into any agreement to sell the Project.

Section 5.17 Changes to the Project. Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exclusion from gross income for federal income tax purposes of the interest on the Bonds. Borrower intends to utilize the Project as required by the Regulatory Agreement.

Section 5.18 No Condemnation. There is not now pending, and Borrower has not received notice of, any actual or proposed condemnation or taking for public or private use affecting all or any portion of the Project or any interest in it.

Section 5.19 Borrower's Uniform Commercial Code Location. Borrower is a limited partnership organized under the laws of the State of Texas, and will not change its form and place of organization without first notifying the Bondowner Representative in writing.

ARTICLE VI DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Borrower will be in default under this Agreement upon the occurrence of any one or more of the following events ("**Events of Default**"):

- (a) Borrower fails to make any payment of principal or interest under the Note within ten days after the date when due;
- (b) Borrower fails to make any deposit of funds within ten days after the date when due or if demanded by Bondowner Representative under this Agreement within ten days after Bondowner Representative's written demand;
- (c) Borrower fails to comply with any other covenant contained in this Agreement which calls for the payment of money and does not cure that failure within **[30]** days after written notice from Bondowner Representative;
- (d) Borrower or any of its general partners or Guarantor becomes insolvent or the subject of any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor creditor relationships which remains undismissed or unstayed for a period of **[90]** days ("**Act of Bankruptcy**");
- (e) Borrower or Guarantor dissolves, terminates or liquidates;

(f) Borrower is in default under the Mortgage, following the expiration of any applicable cure period in the Mortgage;

(g) any representation or warranty made or given in any of the Loan Documents proves to be false or misleading in any material respect;

(h) construction of the Project is abandoned for a period of 15 **[business]** consecutive days or is not completed on or before the Completion Date, as such date may be extended hereunder;

(i) construction of the Project is halted prior to completion for any period of 15 consecutive **[business]** days for any cause which is not beyond the reasonable control of Borrower or any of its contractors or subcontractors;

(j) any governmental, judicial or legal authority having jurisdiction over the Project orders or requires that construction of the Project be stopped in whole or in part or any required approval, license or permit is withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of 30 consecutive days;

(k) Borrower is in material default under any contract for the construction of the Project or any lease of any part of the Project or any space within the Project, for a total period of 90 days;

(l) Borrower fails to comply with any provision contained in this Agreement other than those provisions elsewhere referred to in this Section 6.01 and does not cure that failure within 90 days after such written notice;

(m) under any of the Loan Documents, an Event of Default (as defined in that document) occurs and any applicable cure period has expired;

(n) an “Event of Default” occurs under the Regulatory Agreement and any applicable cure period has expired;

(o) a determination by the Bondowner Representative in its reasonable judgment that there has been a material adverse change in Borrower’s or Guarantor’s financial condition; or

(p) the occurrence of a Determination of Taxability.

The Issuer, the Trustee and the Bondowner Representative hereby agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner of Borrower shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower. Copies of all notices which are sent to Borrower under the terms of this Agreement shall also be sent to Investor Limited Partner at its address provided in the Indenture.

Notwithstanding the foregoing, the Investor Limited Partner shall have the right (but not the obligation) to cure any event set forth in this Section 6.01 by the expiration of the cure period available to the Borrower under the terms of this Agreement or the applicable Loan Document.

Section 6.02 Remedies. If an Event of Default occurs under this Agreement, Bondowner Representative may direct Trustee, as assignee of the rights of Issuer other than the Reserved Rights hereunder, to exercise any right or remedy which the Issuer has under any of the Loan Documents, or which is otherwise available at law or in equity or by statute, and all of such rights and remedies shall be cumulative. Trustee shall take such actions hereunder and under the Loan Documents as directed in writing by Bondowner Representative if permissible under, and subject to any conditions contained in, the Indenture. If any Event of Default occurs, Bondholder's obligation to lend under the Loan Documents shall automatically terminate and Bondowner Representative may, in its sole discretion, withhold any one or more disbursements. Bondowner Representative may also withhold any one or more disbursements after an event occurs that with notice or the passage of time could become an Event of Default under this Agreement. No disbursement of Loan funds by Bondholder shall cure any default of Borrower, unless Bondowner Representative agrees otherwise in writing in each instance.

Notwithstanding anything to the contrary contained in the Indenture, this Agreement or any of the other Loan Documents, Bondowner Representative has the right to request the Trustee, as Assignee of the rights of Issuer under this Agreement (other than the Reserved Rights), to take any action which Bondowner Representative, in its good faith discretion, deems prudent in order to enforce any right or remedy of Issuer or Trustee under the Loan Documents and the Trustee shall take such action, if permissible under, and subject to any conditions contained in, the Indenture, provided that such action shall not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Following expiration of all applicable notice and cure periods, including those provided to the Investor Limited Partner, if Borrower commits an Act of Bankruptcy, all of Borrower's obligations under the Loan Documents shall automatically become immediately due and payable upon the filing of the petition commencing such proceeding, all without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character. Upon the occurrence of any other Event of Default, all of Borrower's obligations under the Loan Documents may become immediately due and payable without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character, all at Bondowner Representative's option, exercisable in its sole discretion. If such acceleration occurs, Bondowner Representative may apply the undisbursed Loan funds, and any other available Borrower's Sources to the obligations of Borrower under the Loan Documents, in any order and proportions that Bondowner Representative in its sole discretion may choose, subject to the requirements of the Indenture with respect to the application of Bond proceeds.

Also upon any Event of Default, Bondowner Representative shall have the right, as servicer of the Loan and on behalf of Trustee, to cause to be recorded a notice of default under the Mortgage, to enter and take possession of the Project, whether in person, by agent or by court appointed receiver, to take any and all actions which Bondowner Representative in its sole discretion may consider necessary to complete construction of the Project, including making changes in plans, specifications, work or materials and entering into, modifying or terminating any contractual arrangements, all subject to Bondowner Representative's right at any time to discontinue any work without liability and to exercise any and all rights and remedies of the Issuer (except for Reserved Rights) under the Loan Documents in such order and to such extent as Bondowner Representative determines in its sole discretion. If Bondowner Representative chooses to complete the Project, it shall not assume any liability to Borrower or any other person for completing the Project, or for the manner or quality of construction of the Project, except as a direct and sole result of its gross negligence or willful misconduct, and Borrower expressly waives any such liability. If Bondowner Representative or Trustee exercises any of the rights or remedies provided in this paragraph, that exercise shall not make Bondowner Representative or Trustee, or cause Bondowner Representative to be deemed to be, a partner or joint venturer of Borrower. Bondowner Representative in its sole discretion may choose to complete construction in its own name. All sums which are expended by Bondowner

Representative in completing construction shall be considered to have been disbursed to Borrower on behalf of Issuer and shall be secured by the Mortgage and any other collateral held by Issuer, Trustee or Bondowner Representative in connection with the Loan; any sums of principal shall be considered to be an additional loan to Borrower bearing interest at the Default Rate, as defined in the Note, and shall be secured by the Mortgage and any other collateral held in connection with the Loan. For these purposes, Bondowner Representative, in its sole discretion, may reallocate any line item or cost category of the cost breakdown.

ARTICLE VII INDEMNIFICATION; BORROWER'S OBLIGATIONS

(a) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE ISSUER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE ISSUER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE ISSUER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE; PROVIDED, HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN CONNECTION WITH THE ISSUANCE OF THE BONDS, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE ISSUER AND ITS RESPECTIVE

GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE ISSUER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE ISSUER THE BORROWER SHALL DEFEND THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE ISSUER AND THE BORROWER SHALL PAY THE ISSUER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE ISSUER; PROVIDED HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

NOTWITHSTANDING ANY PROVISION OF THIS LOAN AGREEMENT TO THE CONTRARY, THE ISSUER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE ISSUER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE ISSUER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

(b) BORROWER RELEASES TRUSTEE AND BONDOWNER REPRESENTATIVE, AND THEIR RESPECTIVE OFFICERS, MEMBERS, DIRECTORS, SUPERVISORS, AGENTS, OFFICIALS, EMPLOYEES, COUNSEL, ATTORNEYS, AGENTS, AND AFFILIATES PAST, PRESENT AND FUTURE AND ANY PERSON WHO CONTROLS, TRUSTEE OR BONDOWNER REPRESENTATIVE WITHIN THE MEANING OF THE SECURITIES ACT OF 1933, FROM, AND COVENANTS AND AGREES, WITHOUT LIMITING THE INDEMNITY PROVIDED IN SECTION 3.18 HEREOF OR IN THE REGULATORY AGREEMENT, TO INDEMNIFY, HOLD HARMLESS AND DEFEND TRUSTEE AND BONDOWNER REPRESENTATIVE AND THEIR RESPECTIVE OFFICERS, COMMISSIONERS, MEMBERS, SUPERVISORS, DIRECTORS, EMPLOYEES, AGENTS, OFFICIALS, AFFILIATES, ATTORNEYS AND ANY PERSON WHO CONTROLS SUCH PARTY WITHIN THE MEANING OF THE SECURITIES ACT OF 1933 AND EMPLOYEES AND EACH OF THEM (EACH AN "INDEMNIFIED PARTY") FROM AND AGAINST, ANY AND ALL LOSSES, CLAIMS, DAMAGES, DEMANDS, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES), TAXES (OTHER THAN INCOME TAXES PAYABLE BY ANY PARTY AS A RESULT OF ANY FEES PAYABLE TO SUCH PARTIES IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY), CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE, JOINT OR SEVERAL, BY OR ON BEHALF OF ANY PERSON ARISING OUT OF:

(a) the transactions provided for in the Loan Documents or the Indenture or otherwise in connection with the Project, the Bonds, the Loan or the execution and delivery or amendment of any other document entered into in connection with the transactions provided for in the Indenture or the Loan Documents (provided no indemnity shall be required for claims due to nonpayment of the Note);

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

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

(d) any and all claims arising in connection with the interpretation, performance, enforcement, breach, default or amendment of the Indenture, the Loan Documents or any other documents relating to the Project or the Bonds or in connection with any federal or state tax audit or any questions or other matters arising under such documents;

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

(f) Trustee's acceptance or administration of the trusts created by the Indenture or the exercise of its powers or duties under the Indenture or under this Agreement, the Regulatory Agreement or any other agreements to which it is a party or otherwise in connection with the transactions provided for in the Indenture or the Loan Documents;

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

(h) Borrower's failure to comply with any requirement of this Agreement or the Regulatory Agreement;

(i) any act or omission of Borrower or any of its agents, servants, employees or licensees in connection with the Loan or the Project, including violation of any law, ordinance, court order or regulation affecting the Project or any part of it or the ownership, occupancy or use of it;

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

(k) the condition of the Project, including any violation of any law, ordinance, court order or regulation affecting the Project or any part of it, including any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project;

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

(m) to the extent not mentioned in any of the preceding subsections, any cause whatsoever in connection with transactions provided for in this Agreement and the other Loan Documents or otherwise in connection with the Project, the Bonds or the execution or amendment of any document relating to the Bonds or the Project.

THIS INDEMNIFICATION SHALL EXTEND TO AND INCLUDE, WITHOUT LIMITATION, ALL REASONABLE COSTS, COUNSEL FEES, EXPENSES OR LIABILITIES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR PROCEEDING BROUGHT WITH RESPECT TO SUCH CLAIM, EXCEPT:

(a) IN THE CASE OF THE FOREGOING INDEMNIFICATION OF TRUSTEE OR ANY OF THE OTHER INDEMNIFIED PARTIES (EXCEPT AS PROVIDED IN THE FOLLOWING SUBPARAGRAPH (b)) TO THE EXTENT SUCH DAMAGES ARE FOUND BY A FINAL, NON-APPEALABLE JUDGMENT OF A COURT OF COMPETENT JURISDICTION TO HAVE BEEN CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH PERSON); AND

(b) IN THE CASE OF THE FOREGOING INDEMNIFICATION OF BONDOWNER REPRESENTATIVE, OR ANY OF ITS RESPECTIVE INDEMNIFIED PARTIES, TO THE EXTENT SUCH DAMAGES ARE FOUND BY A FINAL, NON-APPEALABLE JUDGMENT OF A COURT OF COMPETENT JURISDICTION TO HAVE BEEN CAUSED SOLELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH PERSON.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Agreement, Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense of the action or proceeding, including the employment of counsel selected by Borrower, subject to the approval of the Indemnified Party, which approval shall not be unreasonably withheld, conditioned or delayed, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion, provided that Bondowner Representative and Trustee, as appropriate, shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense of the action or proceeding, and Borrower shall be obligated to pay the reasonable fees and expenses of such separate counsel if (A) the Indemnified Party determines that a conflict of interest exists between the interests of the Indemnified Party and the interests of Borrower or (B) such separate counsel is employed with the approval of Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

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

ARTICLE VIII BONDOWNER REPRESENTATIVE AS SERVICER

Notwithstanding that Loan payments shall be made to the Trustee, the Bondowner Representative shall service the Loan on behalf of Issuer and Trustee, except as specifically set forth in the Indenture. The Bondowner Representative shall have full power and authority to do any and all things in connection with such servicing which it may deem necessary or desirable, and will exercise at least the same degree of care with respect to the Loan that Bondowner Representative exercises with respect to servicing loans for its own account.

ARTICLE IX MISCELLANEOUS

Section 9.01 No Waiver; Consents. Each waiver by Bondowner Representative must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from Bondowner Representative's delay in exercising or failure to exercise any right or remedy against Borrower or any security. Consent by Bondowner Representative to any act or omission by Borrower shall not be construed as a consent to any other or subsequent act or omission or as a waiver of the requirement for Bondowner Representative's consent to be obtained in any future or other instance. All rights and remedies of Bondowner Representative are cumulative.

Section 9.02 Purpose and Effect of Bondowner Representative Approval. Bondowner Representative's approval of any matter in connection with the Loan shall be for the sole purpose of protecting Bondowner's security and rights. No such approval shall result in a waiver of any default of Borrower. In no event shall Bondowner Representative's approval be a representation of any kind with regard to the matter being approved.

Section 9.03 No Commitment To Increase Loan. From time to time, Bondowner Representative may approve changes to the Plans and Specifications at Borrower's request and may also require Borrower to make corrections to the work of construction, all on and subject to the terms and conditions of this Agreement. Borrower acknowledges that no such action or other action by Bondowner

Representative shall in any manner commit or obligate Issuer or the Bondowner Representative to increase the amount of the Loan.

Section 9.04 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and benefit of Issuer, the Bondholder and Borrower and their permitted successors and assigns. No trust fund is created by this Agreement and no other persons or entities shall have any right of action under this Agreement or any right to the Loan funds.

Section 9.05 Joint and Several Liability. If more than one person or entity is signing the Note as Borrower, their obligations under the Note shall be joint and several. As to any Borrower that is a partnership, the obligations of Borrower under the Note are the joint and several obligations of each general partner thereof.

Section 9.06 Notices. Subject to the provisions of Section 6.01, all notices given under this Agreement shall be in writing and shall be given by personal delivery, overnight receipted courier (such as FedEx), sent to the party at its address appearing in Section 12.04 of the Indenture. Notices shall be effective upon receipt or when proper delivery is refused. Addresses for notice may be changed by either party by notice to the other party in accordance with this Section 9.06.

Borrower hereby agrees to provide the Issuer with a copy of any notice given to the Bondowner Representative.

Copies of all notices provided to Borrower pursuant to this Agreement by Bondowner Representative will be simultaneously provided to Winthrop & Weinstine LLP, Capella Tower, 225 S 6th St, Ste 3500, Minneapolis, MN 55402, Attention: Holly Stocker and to Investor Limited Partner at its address provided in the Indenture.

Section 9.07 Authority To File Notices. Borrower irrevocably appoints Bondowner Representative as its attorney in fact, with full power of substitution, to file for record, at Borrower's cost and expense and in Borrower's name, any notices of completion, notices of cessation of labor, or any other notices that Bondowner Representative, in its sole discretion, may consider necessary or desirable to protect its security, if Borrower fails to do so.

Section 9.08 Actions. Bondowner Representative, in its capacity as servicer of the Loan, shall have the right, but not the obligation, to commence, appear in and defend any action or proceeding which might affect its security or its rights, duties or liabilities relating to the Loan, the Project or any of Bondowner Representative's Loan Documents. Borrower shall pay promptly on demand all of Bondowner Representative's reasonable out of pocket costs, expenses and legal fees and expenses of Bondowner Representative's counsel incurred in those actions or proceedings.

Section 9.09 Attorneys' Fees. If any lawsuit, reference or arbitration is commenced which arises out of or relates to this Agreement, the Loan Documents or the Loan, the prevailing party shall be entitled to recover from each other party such sums as the court, referee or arbitrator may adjudge to be reasonable attorneys' fees in the action, reference or arbitration, in addition to costs and expenses otherwise allowed by law. In all other situations, including any matter arising out of or relating to any Act of Bankruptcy, Borrower agrees to pay all of Bondowner Representative's, Issuer's or Trustee's costs and expenses, including attorneys' fees, which may be incurred in enforcing or protecting Bondowner Representative's, Issuer's or Trustee's rights or interests. From the time(s) incurred until paid in full to Bondowner Representative, all such sums shall bear interest at the Default Rate.

Section 9.10 Incorporation of Tax Exemption Agreement. The representations of Borrower set forth in the Tax Exemption Agreement are incorporated by reference herein as if fully set forth herein.

Section 9.11 Loss of Tax Exclusion. Borrower understands that the interest rates provided under this Agreement and the Note are based on the assumption that interest income paid on the Bonds and received by Bondholder will be excludable from Bondholder's gross income under Section 103 of the Internal Revenue Code and is exempt from personal income taxation under applicable State law. In the event that (a) Borrower receives notice from Bondowner Representative that Bondowner Representative has discovered any facts, actions or failure to act by Borrower that would cause the interest on the Bonds not to be treated as tax-exempt, or (b) Issuer, Borrower or Bondowner Representative receives notice from the Internal Revenue Service or other government agency that interest payable on the Bonds is not excludable from the gross income of the owner thereof for federal income tax purposes (other than as a result of the owner being treated as a "substantial user" or "related person" within the meaning of Code Section 147(a), or that the Internal Revenue Service is auditing or otherwise challenging the tax-exempt status of the Bonds, then the interest rate on the Note shall be changed to the Default Rate (as that term is defined in the Indenture), subject to any applicable limitations on the interest rate under the Act or applicable law. Unless required by applicable law or rulings, the interest rate on the Note may only be changed to the Taxable Rate (as defined in the Indenture) upon a Determination of Taxability (as defined in the Indenture).

In the event of a Determination of Taxability, the Borrower shall have 15 days from the date of receipt of notice thereof to elect to have the interest rate on the Note changed to the Taxable Rate effective on the date of Determination of Taxability.

If, within 180 days following the date of the conversion of interest hereunder to the Default Rate, Borrower delivers to Bondowner Representative evidence satisfactory to Bondowner Representative that interest on the Bonds is excludable from the gross income of the owner thereof for federal income tax purposes (which may consist of an opinion of Bond Counsel from a law firm in form and substance acceptable to Bondowner Representative and Issuer to such effect), Bondowner Representative, on behalf of the Bondholder, will promptly refund to Borrower an amount equal to the difference between the interest actually paid at the Default Rate and the interest which would have been payable hereunder in the absence of a conversion to the Default Rate plus interest on such amount at the Default Rate.

Any increase in the interest rate pursuant to this Section 9.11 will operate both prospectively and retroactively to the date upon which interest on the Bonds becomes (or is stated by the Internal Revenue Service to have become) includable in the gross income of the owner thereof for federal income tax purposes, and Borrower shall pay Trustee, for the benefit of Bondholder, promptly upon demand any interest due. Borrower shall also indemnify, defend and hold Bondholder and Issuer harmless from any penalties, interest expense or other costs, including reasonable attorneys' fees (including all allocated charges of internal counsel) and accountants' costs, resulting from any dispute with the Internal Revenue Service concerning the proper tax treatment of the Bonds and the interest payable thereunder. The obligations of Borrower under this paragraph shall survive termination of this Agreement and repayment of the Loan.

Section 9.12 Applicable Law. This Agreement is governed by the laws of the State of Texas, without regard to the choice of law rules of that State.

Section 9.13 Heirs, Successors and Assigns; Participations. The terms of this Agreement shall bind and benefit the heirs, legal representatives, successors and assigns of the parties; provided, however, that Borrower may not assign this Agreement or any Loan funds, or assign or delegate any of its rights or obligations, without the prior written consent of Issuer and Bondowner Representative in each

instance. Borrower acknowledges that Issuer has absolutely assigned all of its right, title and interest in this Agreement (except for Reserved Rights) and the other Loan Documents to Trustee for the benefit of the Bondholder and that Trustee may assign its rights under the Loan Documents to the Bondholder subject to the provisions thereof. Without notice to or the consent of Borrower, Bondholder may disclose to any actual or prospective purchaser of any securities issued or to be issued by Bondholder, and to any actual or prospective purchaser or assignee of any participation or other interest in the Loan or the Bond, any financial or other information, data or material in Bondholder's possession relating to Borrower, the Loan, the Bonds or the Project.

Section 9.14 Relationships With Other Borrower's Customers. From time to time, Bondowner Representative or Bondholder may have business relationships with Borrower's customers, suppliers, contractors, tenants, members, partners, shareholders, officers or directors, or with businesses offering products or services similar to those of Borrower or with persons seeking to invest in, borrow from or lend to Borrower. Borrower agrees that Bondowner Representative and Bondholder may extend credit to such parties and may take any action it may deem necessary to collect the credit, regardless of the effect that such extension or collection of credit may have on Borrower's financial condition or operations. Borrower further agrees that in no event shall Bondowner Representative and Bondholder be obligated to disclose to Borrower any information concerning any other Bondowner Representative and Bondholder customer.

Section 9.15 Disclosure to Title Company. Without notice to or the consent of Borrower, Bondowner Representative may disclose to any title insurance company which insures any interest of Trustee, Issuer or Bondholder under the Mortgage (whether as primary insurer, coinsurer or reinsurer) any information, data or material in Bondowner Representative's possession relating to Borrower, the Loan or the Project.

Section 9.16 Improvement District. Borrower shall not vote in favor of, or directly or indirectly, advocate or assist in the incorporation of any part of the Project into any improvement or community facilities district, special assessment district or other district without Bondowner Representative's prior written consent in each instance.

Section 9.17 Restriction on Personal Property. Borrower shall not sell, convey or otherwise transfer or dispose of its interest in any personal property in which Trustee, Issuer or Bondholder has a security interest or contract to do any of the foregoing, without the prior written consent of Bondowner Representative in each instance unless such item is a fungible tenant improvement (e.g., carpet, appliances, plumbing fixtures) which is replaced by property of comparable or better value and quality. Bondowner Representative's prior written consent shall be required for any material changes to any structural or operational components of the Project, such as elevators, air conditioning or security systems, and the like.

Section 9.18 Force Majeure. If the construction of the Project is directly affected and delayed by fire, earthquake or other acts of God, inclement weather which could not reasonably be anticipated by Borrower, strike, hurricane, lockout, acts of public enemy, riot, insurrection, or governmental regulation of the sale or transportation of materials, supplies or labor, Borrower must notify Bondowner Representative in writing within ten business days after the event occurs which causes the delay. So long as no Event of Default has occurred and is continuing and such notice is given promptly after such event occurs, Bondowner Representative shall extend by a period of time equal to the period of the delay, provided that the aggregate time extension for all delays shall not exceed a total of 90 days, and provided further that (i) no extension shall be given for any delay caused by an event, occurrence or condition which is within the reasonable control or anticipation of Borrower, Contractor, or any subcontractor, and (ii) Borrower shall undertake all reasonable efforts to resolve the delay and to minimize the effects of the delay on the work

and progress of construction. No such extension shall affect the time for performance of, or otherwise modify, any of Borrower's other obligations under the Loan Documents or the maturity of the Note.

Section 9.19 **Severability.** The invalidity or unenforceability of any one or more provisions of this Agreement shall in no way affect any other provision.

Section 9.20 **Interpretation.** Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Agreement are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Agreement. Time is of the essence in the performance of this Agreement by Borrower. The exhibits to this Agreement are hereby incorporated in this Agreement.

Section 9.21 **Amendments.** This Agreement may not be modified or amended except by a written agreement signed by the parties hereto. Any such amendment shall be delivered promptly to the Trustee.

Section 9.22 **Counterparts.** This Agreement and any attached consents or exhibits requiring signatures may be executed in counterparts, and all counterparts shall constitute but one and the same document.

Section 9.23 **Language of Agreement.** The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any party.

Section 9.24 **Limited Recourse Obligation.** During the Permanent Term, Borrower and its general partners are not personally liable for any deficiency in the payment of any obligations secured by the Mortgage that remain following a judicial foreclosure (or, to the extent permitted by law, a non-judicial foreclosure) of the Mortgage, subject to liability under those certain Non-Recourse Carve Out Guaranties to be executed by Borrower, General Partner and Guarantors on the Conversion Date.

Nothing contained in this Section shall impair the validity of this Agreement or any Loan Documents or any lien or security interest created or perfected thereby.

Section 9.25 **NO ORAL AGREEMENT. THIS WRITTEN LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.** If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including any other Loan Document, the terms, conditions and provisions of this Agreement shall prevail.

Section 9.26 **Affirmative Action.** Borrower shall not discriminate in its employment practices against any employee or applicant for employment because of the applicant's race, creed, religion, national origin or ancestry, sex, age, sexual orientation or preference, marital status, color, physical disability, familial status and disability, mental condition or medical condition, including pregnancy, childbirth or related condition.

Section 9.27 **Time.** Time shall be of the essence in the performance of this Agreement.

Section 9.28 **Assignment of Issuer's Rights.** As security for payment of the Bond, Issuer will pledge the amounts payable hereunder and assign, without recourse or liability, to Trustee, Issuer's rights under this Agreement and the Note, including the right to receive payments hereunder (but excluding Reserved Rights), and hereby directs Borrower to make said payments directly to Trustee, or otherwise upon the order of Trustee. Borrower herewith consents to such assignment and will make payments under this Agreement directly to Trustee, or otherwise to the order of Trustee without defense or set off by reason of any dispute between Borrower and Issuer, Trustee or the Bondholder.

Section 9.29 **[Reserved].**

Section 9.30 **Americans with Disabilities Act.** The Borrower shall be in full compliance with all federal and state laws, including those of the Americans with Disabilities Act ("**ADA**"), 42 U.S.C. 12101 et seq. and its implementing regulations. Under the ADA, the Bondowner Representative and the Borrower shall provide for reasonable accommodations to allow qualified individuals access to and participation in their programs, services and activities. In addition, the Borrower shall not discriminate against individuals with disabilities nor against persons due to their relationship or association with a person with a disability. Firms granted subawards (i.e., subcontractors, subgrants, contracts under loans, etc.) shall comply with the ADA and certify and disclose accordingly. The Borrower shall provide certificates attesting to compliance with the provisions of this Section 9.30.

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The parties to this Agreement have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: J.B. Goodwin
Title: Chair

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

JPMORGAN CHASE BANK, N.A.,
a national banking association

By: _____
Raymond Junior, Authorized Officer

EXHIBIT "A"

FORM OF PROMISSORY NOTE

NOTE: THIS PROMISSORY NOTE MAY REQUIRE A BALLOON PAYMENT AT MATURITY

\$10,000,000

Houston, Texas

January 1, 2019

FOR VALUE RECEIVED, the undersigned ("**Borrower**") promises to pay to the order of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas, (the "**Issuer**"), as Issuer under that certain Indenture of Trust dated as of January 1, 2019 (the "**Indenture**") relating to the Issuer's Multifamily Housing Revenue Bonds (McMullen Square) Series 2019, issued in the principal amount of \$10,000,000 (the "**Bonds**"), c/o Wilmington Trust, National Association, at its offices at 15950 North Dallas Parkway, Suite 550, Dallas, TX 75248, or at such other place as the holder of this Note ("**Holder**") may from time to time designate in writing, the sum of TEN MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$10,000,000) in lawful money of the United States, with interest thereon from the date of disbursement until paid at the rates set forth below. Interest shall accrue on the outstanding principal amount from time to time calculated on the basis of a 360 day year comprised of twelve 30 day months, with interest for any partial calendar month calculated on the basis of a 365 or 366 day year and the actual number of days in that month (determined on a daily basis, the first such determination being made on the date Bondowner Representative advances any portion of the principal of this Note, and other determinations being made on the date upon which a change in such rate occurs).

This Note shall evidence an acquisition, construction and permanent loan to Borrower for the purpose of acquisition and rehabilitation of the Project (as defined in the Indenture), which loan is made with the proceeds of the Bonds to be purchased by JPMorgan Chase Bank, N.A. ("**Bondowner Representative**").

Payments on this Note are expected and intended to correspond to payments of interest, or principal and interest, as the case may be, on the Bonds, and this Note shall be interpreted consistent with this intent.

This promissory note is the "Note" attached to the Loan Agreement as Exhibit A, dated as of January 1, 2019 (as the same may be amended, modified or supplemented from time to time, the "Loan Agreement") between the Borrower, the Bondowner Representative and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

The principal amount and interest shall be payable on the dates and in the amounts set forth on Section 2.07 of the Loan Agreement and on such other dates, that principal and redemption price of, and interest on the Bonds, and the acceleration premium, if any, are payable, subject to prepayment as provided in the Indenture and the Loan Agreement.

This Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Bonds. All the terms, conditions and provisions of the Loan Agreement, the Indenture and the Bonds are hereby incorporated as a part of this Note.

Under certain circumstances, the Borrower may at its option and may be required to, prepay all or any part of the amount due on this Note, together with accrued interest thereon, as provided in the Loan Agreement.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay costs of collection and reasonable attorneys' fees in case of an Event of Default on this Note, as set forth in the Loan Agreement.

This Note shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to conflict of laws principles.

All agreements between Borrower and Issuer, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity hereof or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to Issuer exceed interest computed at the Maximum Rate (as defined below). If, from any circumstance whatsoever, interest would otherwise be payable to Issuer in excess of interest computed at the Maximum Rate, the interest payable to Issuer shall be reduced to interest computed at the Maximum Rate; and if from any circumstance Issuer shall ever receive anything of value deemed interest by applicable law in excess of interest computed at the Maximum Rate, an amount equal to any excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to Issuer shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed interest computed at the Maximum Rate. This section shall control all agreements between Borrower and Issuer, and any successive holder of this Note. The term "Maximum Rate" shall mean the highest lawful rate of interest applicable to the loan transaction evidenced by this Note taking into account whichever of applicable federal law or Texas law permits the higher rate of interest, and after also taking into consideration all compensation deemed interest under applicable law.

[Signature Page to Follow]

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BORROWER:

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

ENDORSEMENT

Pay to the order of Wilmington Trust, National Association., without recourse, as Trustee under the Indenture referred to in the within mentioned Agreement, as security for such Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: J.B. Goodwin
Title: Chair

Dated: _____, 20__

EXHIBIT "B"

LAND

[to come from Borrower]

EXHIBIT “C”

AMORTIZATION SCHEDULE

[to come]

EXHIBIT “D”

LOAN DOCUMENTS

1. Credit and Security Documents
 - a. Regulatory Agreement.
 - b. Agreement.
 - c. Note.
 - d. Mortgage.
 - e. Financing Statement UCC-1.
 - f. Assignment of Construction Contract.
 - g. Assignment of Architecture Contract.
 - h. Assignment of Developer’s Fee.
2. Guaranties
 - a. Payment and Performance Guaranty by the Borrower and Guarantors in favor of Issuer and Bondholder Representative.
3. Evidence of Authority
 - a. Partnership certificate authorizing Borrower to:
 - b. borrow; and
 - c. execute the Loan Documents.
 - d. Partnership certificate, limited liability company certificate or certified copy of corporate minutes for each general partner of Borrower authorizing the general partner as general partner of Borrower to:
 - e. borrow; and
 - f. execute the Loan Documents.

EXHIBIT “E”

DISBURSEMENT SCHEDULE

EXHIBIT “F”

[RESERVED]

EXHIBIT “G”

PROJECT DESCRIPTION

EXHIBIT “H-1”

INITIAL COST BREAKDOWN

EXHIBIT “H-2”

[RESERVED]

EXHIBIT "I"

AFFIDAVIT OF COMMENCEMENT

EXHIBIT “J”

**AFFIDAVIT AND CERTIFICATION
OF COMPLETION**

REGULATORY AND LAND USE RESTRICTION AGREEMENT

Among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
a national banking association,
as Trustee,

and

TCD MCM, LP,
a Texas limited partnership,
as Borrower

Dated as of January 1, 2019

Relating to

\$_[]
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Bonds
(McMullen Square)
Series 2019

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REGULATORY AND LAND USE RESTRICTION AGREEMENT

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (as amended, modified or supplemented from time to time, this “Agreement” or this “Regulatory Agreement”) dated as of January 1, 2019 is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State of Texas (the “State”), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as trustee under the hereinafter defined Indenture (together with any successor trustee under the Indenture described below and their respective successors and assigns, the “Trustee”), and **TCD MCM, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”).

RECITALS

WHEREAS, pursuant to the Act (as hereinafter defined), the Issuer is authorized to issue bonds and to use the proceeds thereof to provide monies to aid in financing the acquisition, equipping and rehabilitation of residential rental property for dwelling units in the State; and

WHEREAS, the Borrower has requested the assistance of the Issuer in financing a multifamily residential rental housing development located on the real property described in Exhibit A hereto (the “Development Site”) and described in Exhibit B-1 hereto (the “Development Facilities” and, together with the Development Site, the “Development”), and, as a condition to such assistance, the Borrower has agreed to enter into this Regulatory Agreement, setting forth certain restrictions with respect to the Development; and

WHEREAS, the Issuer has determined to assist in the financing of the Development by issuing its Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 (the “Bonds”), and loaning the proceeds of such Bonds to the Borrower, upon the terms and conditions set forth in the Loan Agreement (as hereinafter defined); and

WHEREAS, in order for interest on the Bonds to be excludable from gross income for federal income tax purposes under the Code (as defined herein) and the Regulations (as defined herein) and rulings with respect to the Code, and in order to comply with the Act, the use and operation of the Development must be restricted in certain respects; and

WHEREAS, the Issuer, the Trustee and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, equipping, rehabilitation and operation of the Development and in order to ensure that the Development will be acquired, rehabilitated, used and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Trustee and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. In addition to terms defined above, capitalized terms have the respective meanings assigned to them in this Section 1 or as elsewhere defined in this Regulatory Agreement, in the Indenture, the Loan Agreement or in the Tax Exemption Agreement, unless the context in which they are used clearly requires otherwise:

“Act” means Chapter 2306, Texas Government Code, as amended from time to time.

“**Agreement**” or “**Regulatory Agreement**” means this Regulatory and Land Use Restriction Agreement, as it may be amended from time to time.

“**Annual Income**” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by Section 142(d) of the Code.

“**Available Unit**” means a Unit (except for any Unit reserved for any resident manager, security personnel or maintenance personnel that is reasonably required for the Development) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Development is acquired by the Borrower or (ii) the Closing Date is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after the renovations are completed.

“**Bond Counsel**” means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially means Bracewell LLP.

“**Closing Date**” means the date upon which the Bonds are issued and delivered in exchange for the proceeds representing the purchase price of the Bonds paid by the original purchasers thereof.

“**Code**” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“**Compliance Monitoring Rules**” means the rules published by the Issuer in Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code.

[“**Credit Provider**” means [_____].]

“**Development**” means the Development Facilities and the Development Site.

“**Development Amenities**” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process, as more fully set forth in Exhibit B-2 hereto.

“**Development Facilities**” means the multifamily housing structure and related buildings and other improvements on the Development Site as more fully set forth in Exhibit B-1 hereto, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Development.

“**Development Site**” means the parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances appertaining thereunto.

“**Eligible Tenants**” means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined

by the Issuer under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Bonds under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient thereof).

“Indenture” means the Indenture of Trust of even date herewith between the Issuer and the Trustee, relating to the issuance of the Bonds, and any indenture supplemental thereto.

“Lender” has the meaning set forth in the Indenture.

“Loan” means the loan of a portion of the proceeds of the Bonds made by the Issuer to the Borrower as evidenced by the Bond Note.

“Loan Agreement” means the Loan Agreement of even date herewith among the Issuer, the Bondholder Representative and the Borrower, as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Indenture.

“Loan Documents” means the Security Instrument, the Bond Note, the Loan Agreement, this Regulatory Agreement, the Tax Exemption Agreement, and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Loan.

“Low-Income Tenant” means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under Sections 142(d)(2)(B) and (E) of the Code and in accordance with this Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of Section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under Section 42(i)(3)(D) of the Code.

“Low-Income Unit” means a Unit that is included as a Unit satisfying the requirements of the Set Aside.

“Multifamily Tax Subsidy Program Income Limit” (or successor term) means the income limits provided by HUD pursuant to Section 142(d) of the Code.

“Organizational Documents” means the Second Amended and Restated Limited Partnership Agreement of the Borrower dated as of January __, 2019, as the same may be amended, modified, supplemented or restated from time to time.

“Persons with Special Needs” means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Issuer as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Issuer.

“Qualified Project Period” means, with respect to the Development, the period beginning on the

first day on which 10 percent of the Units are occupied (which date may be the Closing Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied (which date may be the Closing Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Development is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Development under Section 8 of the Housing Act terminates.

“**Regulations**” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“**Related Person**” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“**Replacement Reserve**” means the account established by the Replacement Reserve and Security Agreement.

“**Replacement Reserve Agreement**” means the Replacement Reserve and Security Agreement dated the date hereof by and between the Borrower and the [**Credit Provider**].

“**Security Instrument**” means the Multifamily Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith, from the Borrower as grantor to the Issuer as beneficiary (as assigned to the Trustee) with respect to the Project, as the same may from time to time be replaced, amended or supplemented as provided therein and in the Indenture.

“**Set Aside**” means the requirement that at least 40% of the Available Units be occupied or held vacant for occupancy at all times by Low-Income Tenants.

“**State Reserve Period**” means, with respect to the Development, the period beginning on the Closing Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Development; (b) the date on which the Borrower suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored; (c) the date on which the Development is demolished; (d) the date on which the Development ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

“**State Restrictive Period**” means, with respect to the Development, the period beginning on the first day on which the Borrower takes legal possession of the Development and ending on the latest of (a) the date that is 35 years (as a result of the Borrower’s election to extend the affordability period) after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Development is outstanding for federal income tax purposes, and (c) the date on which any assistance provided with respect to the Development from the federal government terminates.

“**Tax Exemption Agreement**” means the Tax Exemption Certificate and Agreement of even date herewith among the Issuer, the Trustee and the Borrower, as in effect on the Closing Date and as it may thereafter be amended or supplemented or restated in accordance with its terms.

“**Tenant Income Certification**” means a certification form available on the Issuer’s website at the

time of submission used to certify income and other matters executed by the household members of each Unit in the Development.

“**Unit**” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Development; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code).

“**Unit Status Report**” means the certified residential rental housing program compliance report with respect to the Development to be filed by the Borrower with the Issuer electronically through the filing system available on the Issuer’s website in the form available on the Issuer’s website at the time of submission of the report or in such other form as the Issuer may reasonably prescribe in writing to the Borrower pursuant to Section 4(e) hereof.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender include each other gender, and words of the singular number include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof are to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms are to be determined by reference to this Section 1, notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and do not in any way modify or restrict any of the terms or provisions hereof and are not to be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

Section 1A. Acquisition, Equipping and Rehabilitation of the Development. The Borrower hereby represents, covenants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Issuer or the Trustee or both, including specifically the representations and expectations set forth in the Tax Exemption Agreement, are true and correct in all material respects as and when made.

(b) [Reserved].

(c) The Borrower will submit to the Issuer and the Trustee evidence of construction completion as required in the Loan Agreement and within 30 days of completion in the format prescribed by the Issuer as required pursuant to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code. The Borrower further agrees to cause the architect of record to submit a certification that the Development was rehabilitated in compliance with all applicable laws and the engineer of record (if applicable) must submit a certification that the Development was rehabilitated in compliance with design requirements.

(d) The Borrower will take or not fail to take, as is applicable, all actions necessary to cause the Proceeds to be applied in a manner consistent with the requirements of the Indenture, the Loan Agreement, the Tax Exemption Agreement and this Regulatory Agreement. The Borrower acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Borrower and the Development.

- (e) The Borrower is a qualified “housing sponsor” as defined in the Act.

Section 2. Tax-Exempt Status of the Bonds. The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes (subject to any exceptions contained in the opinion delivered upon the original issuance of the Bonds). With the intent not to limit the generality of the foregoing, the Borrower represents, covenants and agrees that prior to the final maturity of the Bonds, unless it has received and filed with the Issuer and Trustee a Favorable Opinion of Bond Counsel:

(a) That the Development will be owned, managed and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Development will be comprised of residential Units and facilities functionally related and subordinate thereto;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Development will be functionally related and subordinate to the Units comprising the Development and will be of a character and size that is commensurate with the character and size of the Development;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than thirty days or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Development will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Development will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Development tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Development, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Development that contains fewer than five Units be occupied by the Borrower;

(viii) that each Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in this Regulatory Agreement, the Tax Exemption Agreement and the Loan Agreement) at all times during the longer of (A) the term of the Bonds or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low-Income Tenants and other Eligible Tenants as provided herein, and that at no time will any portion of the Development be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Development will meet the Set Aside. For the purposes of this Section 2(a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low-Income Tenant of the same family size and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file (A) Tenant Income Certifications and supporting documentation from each Low-Income Tenant dated immediately prior to the initial occupancy of such Low-Income Tenant in the Development and (B) thereafter, annual certification regarding, at a minimum, information regarding household composition and student status in the form available on the Issuer's website; provided that, if any Units in the Development are ever made available to tenants who are not Low-Income Tenants, then the Borrower will obtain, complete and maintain annual Tenant Income Certifications in accordance with Section 142(d)(3)(A) of the Code. The Borrower will obtain such additional information as may be required in the future by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the income information provided by an applicant in any certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Issuer's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Issuer, the completed Internal Revenue Service

Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Issuer's website at the time of such submission to the Issuer (via the electronic filing system available on the Issuer's website). The Borrower will retain all documentation required by this Section 2(a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect and photocopy the books and records of the Borrower pertaining to the Development, including those records pertaining to the occupancy of the Low-Income Units. The Borrower will retain all records maintained in accordance with this Section 2 until the date that is three years after the end of the Qualified Project Period.

(c) That, as of the Closing Date, 50% of the Units are occupied.

(d) That the Borrower will prepare and submit to the Issuer and the Trustee, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form; however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in this Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower hereunder or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Bonds.

Section 3. Modification of Tax and State Restrictive Covenants. The Borrower, the Trustee and the Issuer hereby agree as follows:

(a) During the Qualified Project Period and the State Restrictive Period, to the extent any amendments to the Act or the Code, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, and the Borrower, impose requirements upon the ownership or operation of the Development more restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as is necessary to document such automatic amendment hereof. In addition, this Regulatory Agreement will be amended to the extent required by, and in accordance with, the Loan Agreement.

(b) During the Qualified Project Period and the State Restrictive Period, to the extent that the Act, the Code, or any amendments thereto, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, and the Borrower, impose requirements upon the ownership or

operation of the Development less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee, and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with compliance with the requirements of this Section will be paid by the Borrower and its successors in interest.

Section 4. Housing Development During the State Restrictive Period. The Issuer and the Borrower hereby recognize and declare their understanding and intent that the Development is to be owned, managed and operated as a “housing development,” as such term is defined in Section 2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Issuer until the expiration of the State Restrictive Period.

To the same end, the Borrower hereby represents, covenants and agrees as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Development, to assure that 100% of the Units are reserved for Eligible Tenants;

(b) to assure that the provisions of Sections 2(a)(viii) and 2(a)(ix) hereof continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant in the Development (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant’s initial occupancy of a Unit in the Development, and, if required as described in Section 2(a)(x) hereof, at least annually thereafter in the manner as described in Section 2(a)(x) hereof, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant in the Development (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Issuer to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument and this Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of this Regulatory Agreement and the Loan Agreement are substantial and material obligations of tenancy in the Development, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Trustee and the Issuer, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;

(e) to cause to be prepared and submitted to the Issuer (via the electronic filing system available on the Issuer’s website) by the tenth calendar day of each January, April, July and October or other schedule as determined by the Issuer with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Issuer’s website at the time of submission or in such other form as the Issuer may reasonably prescribe in writing to the Borrower

with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable notice to permit any duly authorized representative of the Issuer or the Trustee to inspect the books and records of the Borrower pertaining to the Development or the incomes of Development tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Issuer's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Issuer's website) the Annual Owner's Compliance Report to the Issuer in the form available on the Issuer's website at the time of submission by April 30 of each year, commencing April 30, 2021;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached hereto as Exhibit C and agreed to in writing by the Issuer. The Borrower must maintain documentation satisfactory to the Issuer of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Issuer upon request. The Borrower must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, regarding tenant and manager selection, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Development sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Issuer must first provide notice of any default or breach to the Borrower and the Lender, and the Borrower will have 30 days to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Development pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Development with, a housing developer that (i) is on the Issuer's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Issuer with respect to its compliance and oversight requirements and to cause the manager of the Development to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under Section 2(a)(ix) hereof will be distributed evenly throughout the Development and will include a reasonably proportionate amount of each type of Unit available in the Development; and

(o) to ensure that the Development conforms to the federal Fair Housing Act.

Section 4.A. Repairs and Maintenance Required by State Law. The Borrower will maintain the Replacement Reserve required by and created pursuant to the Replacement Reserve Agreement or a similar account for the longer of: (a) the period of time required pursuant to the Replacement Reserve Agreement, or (b) the State Reserve Period as required by Section 2306.186 of the Texas Government Code.

Section 4.B. Development Amenities. The Borrower hereby represents, covenants and agrees that the Development will include the Development Amenities as described in Exhibit B-2 attached hereto.

Section 5. [Reserved].

Section 6. Persons With Special Needs. The Borrower represents, covenants and warrants that during the State Restrictive Period, it will make at least 5% of the Units within the Development available for occupancy by Persons with Special Needs.

Section 7. Consideration. The Issuer has issued the Bonds to provide funds to make the Loan to finance the Development, all for the purpose, among others, of inducing the Borrower to acquire, rehabilitate, equip and operate the Development. In consideration of the issuance of the Bonds by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Development can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Issuer, the Trustee, and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality and validity of the Bonds, and in the excludability from gross income of interest on the Bonds for federal income tax purposes under existing law. In performing their duties and obligations hereunder, the Issuer, the Borrower, and the Trustee may rely upon statements and certificates of the Low-Income Tenants or Eligible Tenants and the Issuer and the Trustee may rely upon statements and certifications by the Borrower and upon audits of the books and records of the Borrower pertaining to the Development. In addition, the Issuer, the Borrower, and the Trustee may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Issuer, the Borrower, or the Trustee hereunder in good faith and in conformity with such opinion. In determining whether any default by the Borrower exists under this Regulatory Agreement, the Trustee is not required to conduct any investigation into or review of the operations or records of the Borrower and may rely on any written report, notice or certificate delivered to the Trustee by any Person retained to review the Borrower's compliance with this Regulatory Agreement or by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice or certificate is erroneous or misleading.

Section 9. Development in Bexar County. The Borrower hereby represents that the Development is located entirely within Bexar County, Texas.

Section 10. Sale or Transfer of the Development or Change in Sole Member.

(a) The Borrower covenants and agrees not to sell, transfer or otherwise dispose of the Development, prior to the expiration of the Qualified Project Period (other than pursuant to the lease of Units to Eligible Tenants), without (i) providing 30 days prior written notice to the Issuer, (ii) complying with any applicable provisions of this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and other Loan Documents and (iii) obtaining the prior written consent of the Issuer. Such consent of the Issuer will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by

the Issuer: (A) there is delivered to the Trustee and the Issuer a written opinion of independent legal counsel reasonably satisfactory to the Trustee and the Issuer, addressed to the Trustee and the Issuer, concluding that the transferee has duly assumed all of the rights and obligations of the Borrower, under this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents and that each of the documents executed by the transferee in connection therewith has been duly authorized, executed and delivered by the transferee and is a valid and enforceable obligation of the transferee, subject to customary qualifications, (B) the Issuer receives a Favorable Opinion of Bond Counsel, with a copy to the Trustee, which opinion will be furnished at the expense of the Borrower or the transferee, (C) the Issuer receives an assumption fee equal to 0.25% of the principal balance of the Bonds Outstanding at the time of such transfer, (D) the proposed purchaser or assignee executes any document requested by the Issuer with respect to assuming the obligations of the Borrower under this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents, and (E) the Issuer has performed a previous participation review on the proposed purchaser or assignee or any affiliated party, the results of which are satisfactory to the Issuer in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Issuer does not further have any reason to believe the proposed purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or assignee relating to the Development, including but not limited to this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement, the Security Instrument and other Loan Documents. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, provided that written notice thereof has been provided to the Issuer, (a) the transfer by either of the Investor Limited Partner or the Special Limited Partner of its interest in Borrower in accordance with the terms of the Borrower's organizational documents, (b) the removal of the General Partner of the Borrower in accordance with the Borrower's organizational documents and the replacement thereof with the Investor Limited Partner or an affiliate thereof, (c) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner to the General Partner of the Borrower or any of its affiliates, and (d) any amendment to the Organizational Documents or the sole member of the Borrower's organizational documents to memorialize the transfers or removal described above. Upon any sale, transfer or other disposition of the Development in compliance with this Regulatory Agreement, the Borrower so selling, transferring or otherwise disposing of the Development will have no further liability for obligations under the Loan Agreement, this Regulatory Agreement or any loan document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Borrower as set forth in the Loan Agreement, this Regulatory Agreement or any loan document with respect to matters arising prior to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Development.

(b) No transfer of the Development will release the Borrower from its obligations under this Regulatory Agreement arising prior to the date of such transfer, but any such transfer will relieve the Borrower of further liability for obligations under this Regulatory Agreement arising after the date of such transfer.

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, will terminate in its entirety at the end

of the State Restrictive Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein will terminate, without the requirement of any consent by the Issuer or the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions hereof, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Bonds are retired in full or amounts received as a consequence of such event are used to provide a “qualified residential rental project” that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in Sections 1A through 6, 10, 11 and 12 of this Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Development for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee, and the Borrower upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Issuer and the Trustee incurred in connection with the termination of this Regulatory Agreement will be paid by the Borrower and its successors in interest.

Section 12. Covenants to Run With the Land. The Borrower hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Agreement. The Issuer, the Trustee, and the Borrower hereby declare that the covenants, reservations and restrictions set forth herein are covenants running with the land and will pass to and be binding upon the Borrower’s successors in title to the Development; provided, however, that upon the termination of this Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof prior to the termination of this Regulatory Agreement will conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

No breach of any of the provisions of this Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Development or any portion thereof.

Section 13. Burden and Benefit. The Issuer, the Trustee, and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that

the Borrower's legal interest in the Development is rendered less valuable thereby. The Issuer, the Trustee, and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Low-Income Tenants and Eligible Tenants and by furthering the public purposes for which the Bonds were issued.

Section 14. Uniformity; Common Plan. The covenants, reservations and restrictions hereof will apply uniformly to the entire Development in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 15. Default; Enforcement by the Trustee and Issuer. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower, set forth in this Regulatory Agreement, and if such default remains uncured by the Borrower for a period of 60 days after written notice thereof has been given by the Issuer or the Trustee to the Borrower, and the Investor Limited Partner at the Notice Addresses set forth in the Indenture, then the Trustee, acting on its own behalf or on behalf of the Issuer and after being indemnified as provided in the Indenture, will declare an "Event of Default" to have occurred hereunder; provided, however, that, if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default will not constitute an Event of Default hereunder and will not be declared an Event of Default so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) the Borrower delivers to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be cure by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

Following the declaration of an Event of Default hereunder, the Trustee or the Issuer, each subject to being indemnified to its satisfaction with respect to the costs and expenses of any proceeding, may, at its option, take any one or more of the following steps:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Trustee hereunder;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Development during regular business hours following reasonable notice; and
- (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Issuer and the Trustee may obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder. In addition, if the Issuer succeeds in an action for specific performance of an obligation, covenant or agreement of the Borrower contained herein, it is entitled to the relief provided in Section 16(b) hereof to the extent provided in that provision.

All rights and remedies herein given or granted are cumulative, nonexclusive and in addition to any and all rights and remedies that the parties may have or may be given by reason of any law, statute,

ordinance, document or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Issuer will to the extent that it has actual knowledge thereof, by notice in writing, use its best efforts to inform the Trustee, and the Borrower (provided that the failure to notify will not adversely affect the Issuer's or the Trustee's rights under this Regulatory Agreement) that a violation of this Regulatory Agreement has occurred.

It is specifically declared that this Regulatory Agreement or obligations hereunder may not be enforced by tenants or prospective tenants of the Development (except as described in Section 16 below) or, except as specifically provided in the Indenture, by the owners of the Bonds.

Section 16. Enforcement of Certain Provisions by Tenants and other Private Parties.

(a) Following the declaration of an Event of Default hereunder with respect to Sections 4(i) and 4(j) hereof only, a tenant of the Development or any private party may, at its option by mandamus or other suit, including injunctive relief, require the Borrower to perform its obligations and covenants under Sections 4(i) and 4(j) hereof.

(b) If the Issuer, a tenant of the Development, or any private party brings an action to enforce the obligations and covenants of the Borrower under Sections 4(i) and 4(j) hereof, such party has the right to recover attorney's fees directly from the Borrower, without recourse to the Development, if such party is successful in an action seeking enforcement of the obligations and covenants of the Borrower hereunder. This is the only monetary relief a tenant of the Development or other private parties may receive under this Regulatory Agreement and any such recovery is subject to the provisions set forth in Section 15 above.

Section 17. The Trustee. The Trustee will act only as specifically provided herein and in the Indenture and Tax Exemption Agreement. Subject to the right of the Trustee to be indemnified as provided in the Indenture, the Trustee agrees to act as the agent of and on behalf of the Issuer when requested in writing by the Issuer to do so, and any act required to be performed by the Issuer as herein provided will be deemed taken if such act is performed by the Trustee. The Trustee is entering into this Regulatory Agreement solely in its capacity as Trustee under the Indenture, and the duties, powers, rights and obligations of the Trustee in acting hereunder will be subject to the provisions of the Indenture and the Tax Exemption Agreement, all of which are incorporated by reference herein. The incorporated provisions of the Indenture and Tax Exemption Agreement are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture and the Tax Exemption Agreement.

Subject to the Trustee's rights under the Indenture, the Trustee will, at the direction of the Issuer, take reasonable actions to enforce compliance by the Borrower with the terms of this Regulatory Agreement. The Trustee may rely on certificates and reports delivered to the Trustee by the Borrower without independent investigation and the Trustee's responsibility to review and monitor compliance hereunder will not extend beyond the Trustee's receipt of the certificates, reports, and other documents required to be submitted to the Trustee by the Borrower pursuant to this Regulatory Agreement.

The Trustee may resign only upon giving 60 days prior written notice to the Issuer, the Borrower, and to each registered owner of Bonds then Outstanding as shown on the Bond Register. The Trustee may be removed at any time upon 30 days prior written notice to the Trustee, (a) by the Issuer, (b) by the owners of not less than 51% in aggregate principal amount of Bonds then Outstanding, which written instrument must designate a successor Trustee or (c) by the Borrower, with the prior written consent of the Issuer or the owners of 100% in aggregate principal amount of Bonds then Outstanding. Such resignation or removal

will not be effective until a successor Trustee satisfying the requirements of the Indenture is appointed and has accepted its appointment. The Trustee's right to indemnification provided in the Loan Agreement will survive the resignation or removal of the Trustee and the termination of this Regulatory Agreement.

Upon discharge of the Trust Indenture, the Borrower will pay to the Trustee a fee for the performance of the Trustee's duties under this Agreement for the remaining term of this Regulatory Agreement. The amount of such fee to be paid by the Borrower to the Trustee will be in an amount mutually agreed upon by the Borrower and the Trustee at the time of the discharge of the Trust Indenture.

Section 18. Recording and Filing. The Borrower will cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Bastrop County, Texas and in such other places as the Issuer or the Trustee may reasonably request. A file-stamped copy of this Regulatory Agreement and all amendments and supplements thereto will be delivered to the Trustee. The Borrower will pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 19. Reimbursement of Expenses. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Indenture and the Tax Exemption Agreement, throughout the term of this Regulatory Agreement, the Borrower will continue to pay to the Issuer and the Trustee all fees and reimbursement for all expenses actually incurred thereby required to be paid to the Issuer and the Trustee by the Borrower pursuant to the Loan Agreement and the Tax Exemption Agreement.

Section 20. Governing Law. This Regulatory Agreement is governed by the laws of the State of Texas. The Trustee's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement, the Loan Agreement, the Indenture and the Tax Exemption Agreement.

Section 21. Amendments. Subject to the provisions of Section 3 hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto (except that after discharge of the Indenture, consent of the Trustee will not be required), or their successors in title, and duly recorded in the real property records of Bastrop County, Texas, and only upon receipt by the Issuer (with a copy to the Trustee) of a Favorable Opinion of Bond Counsel and an opinion of Bond Counsel that such action is not contrary to the provisions of the Act.

Section 22. Notices. Any notice required to be given hereunder to the Issuer, the Trustee, the Borrower, and the Investor Limited Partner will be given in the manner and to the address (or facsimile numbers) set forth in the Indenture.

Section 23. Severability. If any provision of this Regulatory Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof will not in any way be affected or impaired thereby.

Section 24. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which constitute one and the same instrument, and each of which is deemed to be an original.

Section 25. Authorization to Act for Issuer. To the extent allowed by law, the Issuer hereby authorizes the Borrower to take on behalf of the Issuer all actions required or permitted to be taken by it hereunder, or under the Indenture and the Loan Agreement and to make on behalf of the Issuer all elections and determinations required or permitted to be made by the Issuer hereunder or under the Indenture and the Loan Agreement. In addition, the Issuer hereby authorizes the Borrower to exercise, on behalf of the Issuer,

any election with respect to the Bonds pursuant to the Code or the Regulations, and the Issuer agrees to cooperate with the Borrower and execute any form of statement required by the Code or the Regulations to perfect any such election.

IN WITNESS WHEREOF, the Issuer, the Trustee, and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS, as Issuer**

By: _____
J.B. Goodwin, Chair

(SEAL)

Attest:

James B. Eccles, Secretary

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

On this the _____ day of _____, 2019 personally appeared J.B. Goodwin, Chair of the Governing Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

**WILMINGTON TRUST, NATIONAL
ASSOCIATION,**
as Trustee

By: _____
Name: Dayna L. Smith
Title: Assistant Vice President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

On this the _____ day of _____, 2019 personally appeared Dayna L. Smith, an Assistant Vice President of Wilmington Trust, National Association, a national banking association, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

Notary Public Signature
My Commission expires: _____

(Personalized Seal)

TCD MCM, LP, a Texas limited partnership,

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

ACKNOWLEDGMENT

STATE OF _____ §
 §
COUNTY OF _____ §

On this the _____ day of _____, 2019 personally appeared William E. Rice, Managing Member of Triton Community Development, LLC, a California limited liability company, the managing member of TCD McMullen GP, LLC, a Texas limited liability company, the general partner of TCD MCM, LP, a Texas limited partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

[Regulatory Agreement Signature Page]

EXHIBIT A
PROPERTY DESCRIPTION

[to come]

EXHIBIT B-1

DESCRIPTION OF DEVELOPMENT

Borrower: TCD MCM, LP, a Texas limited partnership

Development: The Development is a 100-unit affordable, multifamily housing development known as McMullen Square Apartments, located at 537 N. General McMullen Drive, San Antonio, Bexar County, Texas 78228. It consists of eight (8) residential apartment buildings with approximately 84,144 net rentable square feet. The unit mix will consist of:

8	one-bedroom/one-bath units
52	two-bedroom/one-bath units
32	three-bedroom/two-bath units
8	four-bedroom/two-bath units
<hr/>	
100	Total Units

Unit sizes will range from approximately 618 square feet to approximately 1,122 square feet.

EXHIBIT B-2

DEVELOPMENT AMENITIES

“Development Amenities” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program pre-application scoring process.

Development Common Amenities must include at least fourteen (14) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of amenities from each section. The Borrower may change, from time to time, the amenities offered; however, the overall points must remain the same. The tenant must be provided written notice of the elections made by the Borrower.

(i) Community Space for Resident Supportive Services

(I) Except in Applications where more than 10% of the units in the proposed Development are Supportive Housing Single Room Occupancy units, an Application may qualify to receive half of the points required under 10 TAC §11.101(b)(5)(A)(i)-(vi) of the Qualified Allocation Plan by electing to provide a High Quality Pre-Kindergarten (“HQ Pre-K”) program and associated educational space at the Development Site. To receive the points the Applicant must commit to all of subparagraphs (-a-) through (-c-) of this paragraph.

(-a-) Space and Design. The educational space for the HQ Pre-K program must be provided on the Development Site and must be a suitable and appropriately designed space for educating children that an independent school district or open-enrollment charter school can utilize to establish and operate a HQ Pre-K program. This space includes at a minimum a bathroom and large closet in the classroom space; appropriate design considerations made for the safety and security of the students; including limited and secure ingress and egress to the classroom space; and satisfaction of the requirements of all applicable building code for school facilities. The Applicant must provide in the Application a copy of the current school facility code requirements applicable to the Development Site and Owner and Architect certifications that they understand the associated space and design requirements reflected in those code requirements. The Application must also include acknowledgement by all lenders, equity providers and partners that the Application includes election of these points.

(-b-) Educational Provider. The Applicant must enter into an agreement, as described in sub items (-1-) - (-5-) below, and provide evidence of such agreement to the Department on or before submission of the Cost Certification. Lack of evidence of such agreement by the deadline will be cause for rescission of the Commitment Notice.

(-1-) The agreement must be between the Owner and any one of the following: a school district; open-enrollment charter school; or Education Service Center. Private schools and private childcare providers, whether nonprofit or for profit, are

not eligible parties, unless the private school or private childcare provider has entered into a partnership with a school district or open-enrollment charter school to provide a HQ Pre-K program in accordance with Texas Education Code Chapter 29, Subchapter E-1.

(-2-) The agreement must reflect that at the Development Site the educational provider will provide a HQ Pre-K program, in accordance with Texas Education Code Chapter 29, Subchapter E-1, at no cost to residents of the proposed Development and that is available for general public use, meaning students other than those residing at the Development may attend.

(-3-) Such agreement must reflect a provision that the option to operate the HQ Pre-K program in the space at the Development Site will continue to be made available to the school or provider until such time as the school or provider wishes to withdraw from the location. This provision will not limit the Owner's right to terminate the agreement for good cause.

(-4-) Such agreement must set forth the responsibility of each party regarding payment of costs to use the space, utility charges, insurance costs, damage to the space or any other part of the Development, and any other costs that may arise as the result of the operation of the HQ Pre-K program.

(-5-) The agreement must include provision for annual renewal, unless terminated under the provisions of item (-c-).

(-c-) If an education provider who has entered into an agreement becomes defunct or elects to withdraw from the agreement and provision of services at the location, as provided for in item (-b-)(-3-) of this subclause, the Owner must notify the Texas Commissioner of Education at least 30 days prior to ending the agreement to seek out any other eligible parties listed in (-b-)(-1-) above. If another interested open-enrollment charter school or school district is identified by the Texas Commissioner of Education or the Owner, the Owner must enter into a subsequent agreement with the interested open-enrollment charter school or school district and continue to offer HQ Pre-K services. If another interested provider cannot be identified, and the withdrawing provider certifies to the Department that their reason for ending the agreement is not due to actions of the Owner, the Owner will not be considered to be in violation of its commitment to the Department. If the Owner is not able to find a provider, they must notify the Commissioner annually of the availability of the space.

(II) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for children and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 15 square feet times the total number of Units, but need not exceed 2,000 square feet in total. It must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (4 points);

(III) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for adults and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 10 square feet times the total number of Units, but need not exceed 1,000 square feet in total. It must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (2 points);

(IV) Service provider office in addition to leasing offices (1 point);

(ii) Safety

(I) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point);

(II) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);

(III) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site (2 points);

(IV) Twenty-four hour, seven days a week recorded camera / security system in each building (1 point);

(V) The provision of a courtesy patrol service that, at a minimum, answers after-hour resident phone calls regarding noise and crime concerns or apartment rules violations and that can dispatch to the apartment community a courtesy patrol officer in a timely manner (3 points);

(iii) Health/Fitness / Play

(I) Accessible walking/jogging path, equivalent to the perimeter of the Development or a length that reasonably achieves the same result, separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);

(II) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 40 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (1 point);

(III) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 20 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (2 points);

(IV) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide

shade and ultraviolet protection. Can only select this item if clause (V) of this subparagraph is not selected; or

(V) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide shade and ultraviolet protection. Can only select this item if clause (IV) of this subparagraph is not selected;

(VI) Horseshoe pit; putting green; shuffleboard court; pool table; or ping pong table in a dedicated location accessible to all residents to play such games (1 point);

(VII) Swimming pool (3 points);

(VIII) Splash pad/water feature play area (1 point);

(IX) Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points);

(iv) Design / Landscaping

(I) Full perimeter fencing that includes parking areas and all amenities (excludes guest or general public parking areas) (2 points);

(II) Enclosed community sun porch or covered community porch/patio (1 point);

(III) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash (requires that the Development allow dogs) (1 point);

(IV) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);

(V) Porte-cochere (1 point);

(VI) Lighted pathways along all accessible routes (1 point);

(VII) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (which may be subject to local water usage restrictions) (1 point);

(v) Community Resources

(I) Gazebo or covered pavilion w/sitting area (seating must be provided) (1 point);

(II) Community laundry room with at least one washer and dryer for every 40 Units (2 points);

(III) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);

(IV) Business center with workstations and seating internet access, 1 printer and at least one scanner which may be integrated with the printer, and either 2 desktop computers or laptops available to check-out upon request (2 points);

(V) Furnished Community room (2 points);

(VI) Library with an accessible sitting area (separate from the community room) (1 point);

- (VII) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- (VIII) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- (IX) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to residents; and seating (3 points);
- (X) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the clubhouse and/or community building (1 point);
- (XI) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the Development (2 points);
- (XII) Bicycle parking that allows for, at a minimum, 1 bicycle for every 5 Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);
- (XIII) Package Lockers. Automated Package Lockers provided at a location within the complex that can be accessed by residents 24/7 and at no charge to the resident. To qualify, there would need to be at least 1 locker for every 8 residential units (2 points).

Development Unit Amenities and Construction Features must include at least nine (9) points selected from the following list. Rehabilitation Developments will start with a base score of five (5) points. Owner may change, from time to time, the amenities offered; however, the overall points must remain the same.

Unit Features

- (I) Covered entries (0.5 point);
- (II) Nine foot ceilings in living room and all Bedrooms (at minimum) (1 point);
- (III) Microwave ovens (0.5 point);
- (IV) Self-cleaning or continuous cleaning ovens (0.5 point);
- (V) Energy-Star rated refrigerator with icemaker (0.5 point);
- (VI) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to Bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the Property site (0.5 point);
- (VII) Energy-Star qualified laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);
- (VIII) Covered patios or covered balconies (0.5 point);
- (IX) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);
- (X) Built-in (recessed into the wall) shelving unit (0.5 point);
- (XI) Recessed LED lighting or LED lighting fixtures in kitchen and living areas (1 point);
- (XII) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area

- for seating although actual seating such as bar stools does not have to be provided) (0.5 point);
- (XIII) Walk-in closet in at least one Bedroom (0.5 point);
- (XIV) Energy-Star rated ceiling fans in all Bedrooms (0.5 point);
- (XV) 48" upper kitchen cabinets (1 point);
- (XVI) Kitchen island (0.5 points);
- (XVII) Kitchen pantry with shelving (may include the washer/dryer unit for Rehabilitation Developments only) (0.5 point);
- (XVIII) EPA WaterSense or equivalent qualified toilets in all bathrooms (0.5 point);
- (XIX) EPA WaterSense or equivalent qualified showerheads and faucets in all bathrooms (0.5 point);
- (XX) Natural stone or quartz countertops in kitchen and bath (1 point);
- (XXI) Double vanity in at least one bathroom (0.5 point);
- (XXII) Hard floor surfaces in over 50% of unit NRA (0.5 point).

Development Construction Features

- (I) Covered parking (may be garages or carports, attached or freestanding) and include at least one covered space per Unit (1.5 points);
- (II) 15 SEER HVAC or for Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided, or in applicable regions of the state, an efficient evaporative cooling system (1.5 points);
- (III) 16 SEER HVAC or for Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided, or in applicable regions of the state, an efficient evaporative cooling system (1.5 points);
- (IV) Thirty (30) year roof (0.5 point);
- (V) Greater than 30 percent stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);
- (VI) Electric Vehicle Charging Station (0.5 points); and
- (VII) An Impact Isolation Class ("IIC") rating of at least 55 and a Sound Transmission Class ("STC") rating of 60 or higher in all Units, as certified by the architect or engineer of record (3 points)
- (VIII) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of three categories: Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED), and ICC 700 National Green Building Standard. A Development may qualify for no more than four (4) points total under this subclause. If the Development involves

scattered sites, there must be green building features incorporated into each site in order to qualify for these points.

(-a-) Enterprise Green Communities. The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(-b-) LEED. The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(-c-) ICC/ASHRAE - 700 National Green Building Standard. The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NGBS Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

EXHIBIT C

TENANT SUPPORTIVE SERVICES

The tenant supportive services to be provided must include at least eight (8) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of services from each section. The Borrower may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Borrower.

(A) Transportation Supportive Services

- (i) shuttle, at least three days a week, to a grocery store and pharmacy and/or a major, big-box retailer that includes a grocery store and pharmacy, OR a daily shuttle, during the school year, to and from nearby schools not served by a school bus system for children who live at the Development (3.5 points);
- (ii) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);

(B) Children Supportive Services

- (i) Provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site meeting the requirements of 10 TAC §11.101(b)(5)(C)(i)(I) of the Qualified Allocation Plan. (Half of the points required under 10 TAC §11.101(b)(7) of the Qualified Allocation Plan);
- (ii) 12 hours of weekly, organized, on-site services provided to K-12 children by a dedicated service coordinator or third-party entity. Services include after-school and summer care and tutoring, recreational activities, mentee opportunities, test preparation, and similar activities that promote the betterment and growth of children and young adults (3.5 points);

(C) Adult Supportive Services

- (i) 4 hours of weekly, organized, on-site classes provided to an adult audience by persons skilled or trained in the subject matter being presented, such as character building programs, English as a second language classes, computer training, financial literacy courses, health education courses, certification courses, GED preparation classes, resume and interview preparatory classes, general presentations about community services and resources, and any other course, class, or presentation that may equip residents with new skills that they may wish to develop (3.5 points);
- (ii) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) that also emphasizes how to claim the Earned Income Tax Credit (1 point);
- (iii) contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; also resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant

services, maintenance, landscaping, or food and beverage operation (2 points);

(iv) external partnerships for provision of weekly substance abuse meetings at the Development Site (1 point);

(D) Health Supportive Services

(i) Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank (2 points);

(ii) annual health fair provided by a health care professional(1 point);

(iii) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);

(iv) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(E) Community Supportive Services

(i) partnership with local law enforcement and/or local first responders to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (2 points);

(ii) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);

(iii) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (1 point);

(iv) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.) (1 point);

(v) specific case management services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (3 points);

(vi) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(vii) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);

(viii) a part-time resident services coordinator with a dedicated office space at the Development or a contract with a third-party to provide the equivalent of 15 hours or more of weekly resident supportive services at the Development (2 points);

(ix) provision, by either the Development Owner or a community partner, of an education tuition- or savings-match program or scholarships to residents who may attend college (2 points).

TAX EXEMPTION CERTIFICATE AND AGREEMENT

Dated as of

January 1, 2019

among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

WILMINGTON TRUST, N.A.,
as Trustee

and

TCD MCM, LP,
as Borrower

regarding

\$7,950,000

**Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Bonds
(McMullen Square)
Series 2019**

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TAX EXEMPTION CERTIFICATE AND AGREEMENT

THIS TAX EXEMPTION CERTIFICATE AND AGREEMENT (this “Agreement”) dated as of January 1, 2019, but effective as of the Closing Date (as defined in the Indenture described below) is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State (as defined herein), **WILMINGTON TRUST, N.A.**, a national banking association organized and existing under the laws of the United States of America, as Trustee under the hereinafter defined Indenture (together with any successor Trustee under the Indenture described below and their respective successors and assigns, the “Trustee”), and **TCD MCM, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”) and is entered into in connection with the issuance of the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (McMullen Square) Series 2019 (the “Bonds”) being issued in the original principal amount of \$7,950,000. The representations of facts and circumstances and the covenants of the Issuer made herein are made in part for purposes of fulfilling the requirements set forth in section 1.148-2(b)(2) of the Regulations (as defined herein).

RECITALS

WHEREAS, the Governing Board of the Issuer has determined to authorize the issuance of the Bonds pursuant to and in accordance with the terms of an Indenture (as defined herein) by and among the Issuer and the Trustee for the purpose of obtaining funds to finance the Project (as defined herein), all under and in accordance with the Constitution and laws of the State (as defined herein); and

WHEREAS, the Issuer desires to use the Proceeds (as defined herein) of the Bonds to fund a mortgage loan to the Borrower (i.e., the Bond Loan, as defined herein) upon the terms and conditions set forth in the Bond Loan Agreement (as defined herein) in order to finance the cost of acquisition, rehabilitation and equipping of the Project; and

WHEREAS, the Issuer and the Borrower desire that interest on the Bonds be excludable from gross income for federal income tax purposes under the Code (as defined herein); and

WHEREAS, the purpose of executing this Agreement is to set forth various facts, certifications, covenants, representations, and warranties regarding the Bonds and the Project and to establish the expectations of the Issuer, the Borrower, and the Trustee as to future events regarding the Bonds, the Project, and the use and investment of Proceeds of the Bonds.

NOW THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby certify, covenant, represent, and agree on behalf of the Issuer, the Borrower, and the Trustee (but not in their individual capacities), respectively, as follows:

1. **Definitions.** Each capitalized term used in this Agreement has the meaning ascribed to such term below or has the meaning or is the amount, as the case may be, specified for such term in this Agreement or in Exhibits to this Agreement and for all purposes hereof has the meaning or is in the amount therein specified. All capitalized terms used but not defined herein,

to the extent that such terms are defined in the Indenture, the Bond Loan Agreement, or the Regulatory Agreement for all purposes hereof have the meanings therein specified. All such terms defined in the Code or Regulations that are not defined herein will for all purposes hereof have the same meanings as given to those terms in the Code and Regulations unless the context clearly requires otherwise.

“Bank” means JPMorgan Chase, a national banking association.

“Bond Counsel” means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially shall mean Bracewell LLP.

“Bond Loan” means the mortgage loan made by the Issuer to the Borrower pursuant to the Bond Loan Agreement in the aggregate principal amount of \$7,950,000 and evidenced by a multifamily note.

“Bond Loan Agreement” means the Bond Loan Agreement among the Issuer, the Trustee, and the Borrower, dated as of January 1, 2019.

“Bond Fund” means the “Bond Fund” created pursuant to the Indenture, with the Interest Account, the Principal Account and the Redemption Account therein.

“Bond Year” means each one-year period that ends on the day selected by the Borrower in a certificate provided to the Issuer and the Trustee. The first and last bond years may be short periods. If no day is selected by the Borrower before the earlier of the final Maturity Date of the Bonds or the date that is five years after the Issue Date of the Bonds, a bond year will end on each anniversary of the Issue Date of the Bonds and on the final Maturity Date of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference is deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Computation Date” means each Installment Computation Date and the Final Computation Date.

“Costs of Issuance” means costs to the extent incurred in connection with, and allocable to, the issuance of an issuance of obligations within the meaning of section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“Costs of Issuance Fund” means the “Costs of Issuance Fund” created pursuant to the Indenture.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Bonds under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient thereof).

“Final Computation Date” means the date on which the final payment in full of the Bonds is made.

“Financial Advisor” means George K. Baum & Company.

“Form 8038” means IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

“Gross Proceeds” means any Proceeds and any Replacement Proceeds.

“Hedged Bonds” means that portion of the Bonds covered by the Swap.

“Indenture” means the Indenture by and between the Issuer and the Trustee, dated as of January 1, 2019.

“Installment Computation Date” means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

“Interest Account” means the “Interest Account” of the Bond Fund created pursuant to the Indenture.

“Investment Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from investing Proceeds.

“IRS” means the Internal Revenue Service.

“Issue Date” means, with respect to an issue of obligations, the first date on which an issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any obligation.

“Issue Price” has the meaning ascribed to it in section 1.148-1(f) of the Regulations.

“Maturity Date” means [_____].

“Median Gross Income for the Area” means, with respect to the Project, the median income for the households in the area which includes the standard metropolitan statistical area in which the Project is located, as determined from time to time by the Secretary of HUD, under Section 8 of the Housing Act (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size.

“Minor Portion” means that portion of the Gross Proceeds of the Bonds that does not exceed in the aggregate \$100,000.

“Net Proceeds” means Sale Proceeds, less the portion of any Sale Proceeds invested in a reasonably required reserve or replacement fund.

“Nonpurpose Investment” means any “investment property,” within the meaning of section 148(b) of the Code, that is not a purpose investment acquired to carry out the governmental purpose of the Bonds.

“Official Intent Date” means January 18, 2018.

“Original Issue Discount” means the excess of the Stated Redemption Price at Maturity over the Issue Price.

“Original Issue Premium” means the excess of the Issue Price over the Stated Redemption Price at Maturity.

“Permitted Investments” has the meaning set forth in the Indenture.

“Placed in Service” has the meaning set forth in section 1.150-2(c) of the Regulations and means the date on which, based on all the facts and circumstances, (a) a facility reaches a degree of completion that will permit its operation at substantially its design level, and (b) a facility is, in fact, in operation at such level.

“Pre-Issuance Accrued Interest” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means amounts representing interest that accrued on an obligation for a period not greater than one year before its Issue Date but only if those amounts are paid within one year after the Issue Date.

“Preliminary Expenditures” are described in section 1.150-2(f)(2) of the Regulations and include architectural, engineering, surveying, soil testing, reimbursement bond issuance and similar costs that are incurred prior to commencement of acquisition, rehabilitation or rehabilitation of a project, but do not include land acquisition, site preparation and similar costs incident to the commencement of rehabilitation.

“Principal Account” means the “Principal Account” of the Bond Fund created pursuant to the Indenture.

“Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means any Sale Proceeds and Investment Proceeds.

“Project” means a 100-unit multifamily housing development known as McMullen Square Apartments, located at 537 N. General McMullen Drive, San Antonio, Texas 78228.

“Project Costs” means, to the extent authorized by the Act and the Code, any and all costs incurred by the Borrower with respect to the acquisition, rehabilitation, and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the Issue Date of the Bonds,

including, without limitation, costs for site preparation, the planning of housing and improvements, the removal or demolition of existing structures, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and Borrower's overhead and supervisor's fees and costs directly allocable to the Project, and administrative and other expenses necessary or incident to the Project and the financing thereof.

“Project Fund” means the “Project Fund” created pursuant to the Indenture.

“Qualified Administrative Costs” are those costs of issuing, carrying or repaying the Bonds, and any underwriter's discount. Qualified Administrative Costs do not include the costs of issuing, carrying or repaying the Bond Loan.

“Qualified Project Costs” means Project Costs that meet the following requirements:

(a) The costs are chargeable to a capital account with respect to the Project for federal income tax purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Bonds during, and fees for a “qualified guarantee” (within the meaning of section 1.148-4 of the Regulations) attributable to the period of, the rehabilitation of the Project will constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs.

(b) If any portion of the Project is being constructed by the Borrower or a Related Person (whether as a general contractor or a subcontractor), such costs include only (i) the actual out-of-pocket costs incurred by the Borrower or such Related Person in constructing the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Borrower or such Related Person (but excluding any profit component) and (iii) any overhead expenses incurred by the Borrower or such Related Person that are directly attributable to the work performed on the Project and do not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of section 1504 of the Code) participating in the rehabilitation of the Project or payments received by such Related Person due to early completion of the Project (or any portion thereof).

(c) The costs are not Costs of Issuance.

(d) (i) The costs were paid no earlier than 60 days prior to the Official Intent Date and (ii) the reimbursement allocation is made no later than 18 months after the later of (A) the date the expenditure was paid and (B) the date the Project is Placed in Service or abandoned, but in no event more than three years after the original expenditure is paid; provided that such limitations do not apply to any amount not in excess of \$100,000 or to Preliminary Expenditures that do not exceed 20 percent of the Sale Proceeds of the Bonds.

“Qualified Project Period” means, with respect to the Project, the period beginning on the first day on which 10 percent of the Units are occupied (which date may be the Closing Date) and

ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied (which date may be the Closing Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is outstanding for federal income tax purposes or, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Qualifying Tenant” means a tenant whose Annual Income is 60 percent or less of Median Gross Income for the Area, as determined under sections 142(d)(2)(B) and (E) of the Code. If all the occupants of a Unit are students (as defined under section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants are not Qualifying Tenants, unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

“Rebate Amount” has the meaning set forth in in section 1.148-3(b) of the Regulations and, generally, means the excess, as of any date, of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments all as determined in accordance with section 1.148-3 of the Regulations.

“Rebate Analyst” means a Person that is (a) qualified and experienced in the calculation of rebate payments under section 148 of the Code, (b) chosen by the Borrower, and (c) engaged for the purpose of determining the amount of required deposits, if any, to the Rebate Fund.

“Rebate Fund” means the “Rebate Fund” created pursuant to the Indenture.

“Redemption Account” means the “Redemption Account” of the Bond Fund created pursuant to the Indenture.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement, among the Issuer, the Trustee, and the Borrower, dated as of January 1, 2019.

“Related Party” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to a person that is not a governmental unit or a 501(c)(3) organization, a Related Person.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Proceeds” has the meaning set forth in section 1.148-1(c) of the Regulations and, generally, consist of amounts that have a sufficiently direct nexus to an issue of obligations or the governmental purpose of an issue of obligations to conclude that the amounts would have

been used for that governmental purpose if the Proceeds were not used or to be used for that governmental purpose.

“Restoration Fund” means the “Restoration Fund” authorized to be created pursuant to the Indenture.

“Revenue Fund” means the “Revenue Fund” created pursuant to the Indenture.

“Sale Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from the sale (or other disposition) of any obligation, including amounts used to pay underwriters’ discount or compensation and accrued interest other than Pre-Issuance Accrued Interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any obligation and that is described in section 1.148-4(b)(4) of the Regulations.

[**“Seller”** means [_____].]

“State” means the State of Texas.

“Stated Redemption Price at Maturity” means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate and payable unconditionally at fixed periodic intervals of one year or less during the entire term of the debt instrument).

“Swap” means the variable-to-fixed interest rate swap transaction entered into by the Borrower with the Swap Counterparty with respect to the Hedged Bonds.

“Swap Counterparty” means Cedar Rapids Bank and Trust Company and its successors and assigns.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation; provided that, a residential accommodation will not fail to be treated as a “Unit” merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“Weighted Average Maturity” means the sum of the products of the Issue Price and the number of years to maturity (taking into account mandatory redemptions) of an obligation, divided by the aggregate Sale Proceeds of such obligation.

“Yield” on (a) an issue of obligations has the meaning set forth in section 1.148-4 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments of principal, interest and fees for qualified guarantees to be paid on the obligation produces an amount equal to the Issue Price of such issue and (b) any investment has the meaning set forth in section 1.148-5 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments to be received on the investment produces an amount equal to all payments for the investment.

“Yield Reduction Payments” means amounts paid in accordance with section 1.148-5(c) of the Regulations that are treated as payments that reduce the Yield on an investment.

“40-60 Test” means the requirement set forth in section 142(d)(1)(B) of the Code providing that 40 percent or more of Units in the Project be occupied by individuals whose income is 60 percent or less of the Median Gross Income for the Area.

2. Authorized Representatives.

(a) Issuer. The undersigned representative of the Issuer represents that such representative (i) is charged, along with others, with the responsibility for the Bonds and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Issuer to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Issuer personnel and consultants to the Issuer, the undersigned representative of the Issuer has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(b) Borrower. The undersigned representative of the Borrower represents that such representative (i) is a duly chosen, qualified and acting officer or other representative of the Borrower, which will be the owner of the Project and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Borrower to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Borrower personnel and consultants to the Borrower, the undersigned representative of the Borrower has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(c) Trustee. The undersigned representative of the Trustee represents that such representative is a duly chosen, qualified and acting officer or other representative of the Trustee and is authorized on behalf of the Trustee to execute and deliver this Agreement.

3. Reasonable Expectations. The Issuer and the Borrower hereby affirm that the facts and estimates that are set forth in this Agreement are accurate and the expectations that are set forth in this Agreement are reasonable in light of such facts and estimates. There are no other facts or estimates that would materially change such expectations. The Issuer has also relied, to the extent appropriate, on the (a) Certificate of the Bank attached hereto as Exhibit A, (b) Certificate of Financial Advisor attached hereto as Exhibit B, (c) Issuer’s Qualified Hedge Identification Certificate attached hereto as Exhibit C, (d) Borrower’s Qualified Hedge Identification Certificate attached hereto as Exhibit D, and (e) Certificate of Swap Counterparty attached hereto as Exhibit E. The undersigned representatives of the Issuer and the Borrower are aware of no fact, estimate or circumstance that would create any doubt regarding the accuracy or reasonableness of all or any portion of the representations set forth in such certificates.

4. Reliance on Borrower's Representations and Covenants. Except as otherwise indicated in this Agreement, the representations, expectations, certifications, covenants and warranties of the Issuer concerning the use and investment of the Proceeds of the Bonds and certain other matters described in this Agreement are based solely upon representations, expectations, certifications, covenants and warranties of the Borrower, as set forth in this Agreement or in the Exhibits attached hereto. In relying upon such representations, expectations, certifications, covenants and warranties of the Borrower, the Issuer has not made any independent investigations of the matters pertaining thereto. The Issuer is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation, expectations, certifications, covenants and warranties of the Borrower made in this Agreement or in the Exhibits attached hereto.

5. Completeness of Borrower Information. The Borrower has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the excludability from gross income for federal income tax purposes of the interest on the Bonds, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information for which Bond Counsel has not asked. After due investigation, there is no information not obtained, or any investigation or inspection not heretofore pursued, that would be relevant or material to the certifications set forth below.

6. General Requirements Relating to Issuance of the Bonds. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) Governmental Purpose. The Borrower has applied to the Issuer and been approved for the Bond Loan to be made from the Proceeds of the Bonds. The proceeds of the Bond Loan (and, thus, the Proceeds of the Bonds) will be used to finance a portion of the Project Costs.

(b) Public Hearing and Approval. A public hearing with respect to the Bonds was conducted by the Issuer on December 20, 2018, in San Antonio, Texas, as required under section 147(f) of the Code. Written notice of the applicable date, hour, place and subject of such public hearing was published no less than 14 days before the date such public hearing was held, in the newspaper of general circulation available to persons residing within such geographic locality. The Attorney General of the State approved the issuance of the Bonds as required under section 147(f) of the Code.

(c) Volume Cap. The Issuer has received from the Texas Bond Review Board a reservation of State private activity bond volume cap in an amount no less than the aggregate principal amount of the Bonds (or if greater, the Issue Price of the Bonds) for the purpose of issuing the Bonds to finance the acquisition, rehabilitation and equipping of the Project.

(d) Issue. There are no other obligations that (i) are sold at substantially the same time as the Bonds (i.e., less than 15 days apart), (ii) are sold pursuant to the same plan of financing with the Bonds, and (iii) will be paid out of substantially the same source of funds as the Bonds.

(e) Form 8038. The Borrower has examined the completed Form 8038 with respect to the Bonds, including accompanying schedules and statements, and, to the best of the Borrower's knowledge and belief, the information in Parts IV and V, which was furnished by the Borrower, is true, correct, and complete. The Issuer will cause Form 8038 with respect to the Bonds to be filed timely with the IRS.

(f) Substantial User. [Except for the Seller,] neither the Borrower nor any Related Person (within the meaning of section 147(a)(2) of the Code) to the Borrower was a "substantial user" (within the meaning of section 1.103-11 of the Regulations) of the [Project] at any time during the five year period before the Issue Date of the Bonds. [The Borrower represents that, for the five-year period following the Issue Date of the Bonds, (i) the gross revenue derived by the Seller with respect to the Project will not be more than five percent of the total revenue derived by all users of the Project and (ii) the Seller will not occupy any area of the Project.]

(g) Program Covenant. Neither the Borrower nor any Related Party of the Borrower is, or will be, a party to any agreement, formal or informal, pursuant to which it will purchase any of the Bonds in an amount related to the amount of the Bond Loan made to the Borrower unless the Borrower or such Related Party provides a Favorable Opinion of Bond Counsel to the Issuer.

(h) No Federal Guarantee. Neither the Issuer nor the Borrower will take any action that would result in all or any portion of the Bonds being treated as federally guaranteed within the meaning of section 149(b)(2) of the Code.

7. Sale Proceeds of the Bonds. The amount of Sale Proceeds received by the Issuer from the sale of the Bonds is \$[_____], which represents the Stated Redemption Price at Maturity of the Bonds. The Sale Proceeds of the Bonds will be loaned to the Borrower and deposited as follows:

(a) The amount of \$[_____] will be deposited in the Project Account of the Project Fund and used to pay Project Costs. The aggregate amount of the Project Costs is anticipated to exceed such amount. Any Project Costs not financed out of Proceeds of the Bonds will be financed out of the Borrower's available funds.

(b) [The amount of \$[_____] will be deposited in the Costs of Issuance Fund and disbursed to pay Costs of Issuance on the Bonds.]

(c) [The amount of \$[_____] will be deposited in the Bond Fund and disbursed to pay interest on the Bonds accruing during a period not to exceed [_____] following the Issue Date of the Bonds. Sale proceeds and investment proceeds of the Bonds expected to be used to pay interest on the Bonds will serve the governmental purpose of the Bonds by temporarily enabling the payment of debt service

on the Bonds pending the rehabilitation of the Project, which is the basis for payment of debt service on the Bonds.]

8. Pre-Issuance Accrued Interest. There is no Pre-Issuance Accrued Interest on the Bonds.

9. Use of Proceeds of the Bonds. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) Qualified Project Costs. At least 95 percent of the Net Proceeds of the Bonds actually expended will be used to pay or reimburse Qualified Project Costs. Not more than five percent of the Net Proceeds of the Bonds will be expended for or allocated to Project Costs that are not Qualified Project Costs.

For purposes of this subparagraph (a) the Project includes only: (i) those portions of buildings included in the Project that are (A) separate and complete facilities for living, sleeping, eating, cooking and sanitation that will be used on other than a transient basis by one or more persons and that will be available on a regular basis for use by members of the general public and will be rented, or available for rental, on a continuous basis during the longer of the term of the Bonds or the Qualified Project Period, and (B) facilities in building areas that are functionally related and subordinate thereto, such as centrally located machinery and equipment and common areas in a typical apartment building (but not including any health club facilities, except a facility that will be available only to tenants and their guests with no separate fee to be paid for the use of such facility); and (ii) land and other facilities that are properly allocable to such living facilities, such as parking areas and recreational areas for occupants of the living facilities.

Further, all of the allocable functionally related and subordinate land areas, facilities, and building areas taken into account in determining Qualified Project Costs under this subparagraph (a) are of a character and size commensurate with the number and size of the living facilities and are not functionally related and subordinate to, or properly allocable to, any other facilities.

(b) Additional Limitations.

(i) Costs of Issuance. Costs of Issuance in an amount of \$[] are expected to be paid out of the Net Proceeds of the Bonds.] The Costs of Issuance financed out of Net Proceeds of the Bonds will not exceed in the aggregate two percent of the Sale Proceeds of the Bonds (i.e., \$[]). Costs of Issuance in excess of two percent of Sale Proceeds of the Bonds will be paid by the Borrower from sources other than Net Proceeds of the Bonds.

(ii) Acquisition of Existing Property. No portion of the Net Proceeds of the Bonds will be used to pay or reimburse the cost of acquiring any property or an interest therein unless, (i) the first use of such property is pursuant to such acquisition, except for land, or (ii) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the portion

of the cost of acquiring such building and equipment financed with the Net Proceeds of the Bonds (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in section 147(d)(3) of the Code. If the Project has two or more buildings, the provisions regarding rehabilitation expenditures are to be applied on a Project-wide basis.

(iii) Limitation on Land Acquisition. Less than 25 percent of the Net Proceeds of the Bonds will be used (directly or indirectly) to acquire land (or an interest therein) and no portion of the Net Proceeds of the Bonds will be used (directly or indirectly) for farming purposes. For this purpose, an amount is considered used for the acquisition of land (or an interest therein) to the extent of that portion of the acquisition cost of the Project that is properly allocable for all federal income tax purposes to the land component (including interests in land) of the Project.

(iv) Prohibited Facilities. None of the Proceeds of the Bonds will be used to acquire, construct, or equip, and no portion of the Project will be, an airplane, a skybox or any other type of luxury box, a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; provided that, any fitness room functionally related to and subordinate to the Project for use by tenants of the Project or their guest is not considered a health club facility for purposes of this subparagraph.

(v) Payments to Related Persons. Any amount of Proceeds of the Bonds paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower will not exceed an arm’s-length charge that is the amount that would be charged to a person other than the Borrower. Further, any amount of Proceeds of the Bonds paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower would be paid under the same circumstances by a person other than the Borrower to such affiliated person or entity. Notwithstanding the foregoing, in no event will amounts of Proceeds of the Bonds that are paid to a Related Person to the Borrower be treated as spent until such amounts are spent on capital expenditures by such Related Person.

(vi) No Working Capital. Except for an amount that does not exceed five percent of the Sale Proceeds of the Bonds (and that is directly related to the Project), the Proceeds of the Bonds will only be expended for (A) costs that would be chargeable to the capital account of the Project if the Issuer’s income were subject to federal income taxation; (B) interest on the Bonds in an amount that does not cause the aggregate amount of interest paid on the Bonds to exceed that amount of interest on the Bonds that is attributable to the period that commences on the Issue Date of the Bonds and ends on the later of (1) the date that is three years from the Issue Date of the Bonds or (2) the date that is one year after the date on which

the Project is Placed in Service; and/or (C) fees for a qualified guarantee of the Bonds or payment for a qualified hedge on the Bonds.

(vii) No Pooling. The Issuer will not use the Proceeds of the Bonds directly or indirectly to make or finance loans to two or more ultimate unrelated borrowers.

(viii) Weighted Average Economic Life. The Weighted Average Maturity of the Bonds, as calculated by the Financial Advisor as set forth in Exhibit B hereto, is [WAM] years. The weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Bonds is at least [WAM/1.2] years. Thus, the Weighted Average Maturity of the Bonds is not more than 120 percent of the weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Bonds. Such weighted average estimated economic life is determined in accordance with the following assumptions: (A) the weighted average is determined by taking into account the respective costs of each asset, excluding land; (B) the reasonably expected economic life of an asset is determined as of the later of (1) the Issue Date of the Bonds or (2) the date on which such asset is originally Placed in Service (or expected to be Placed in Service); and (C) the economic lives for the itemized assets are the useful lives that would have been used for depreciation purposes under section 167 of the Code prior to the enactment of the ACRS system under section 168 of the Code (i.e., the mid-point lives under the Class Life Asset Depreciation Range System of section 167(m) of the Code where applicable and the guideline lives under Revenue Procedure 62-21, 1962-2 C.B. 418, in the case of structures). The Borrower hereby covenants not make any changes to the Project that would, at the time made, cause the remaining Weighted Average Maturity of the Bonds to be more than 120 percent of the remaining weighted average estimated economic life of the portion of the Project financed with Proceeds of the Bonds.

(c) Reimbursement. Other than (i) the amount of \$100,000 and/or (ii) Preliminary Expenditures up to an amount not in excess of 20 percent of the Issue Price of the Bonds, no portion of the Proceeds of the Bonds will be disbursed to reimburse the Issuer, the Borrower or any Related Person for any expenditures paid or incurred prior to the date that is 60 days before the Official Intent Date, which is the date on which the Issuer adopted a resolution describing the Project, stating the maximum principal amount of obligations expected to be issued for the Project and stating the Issuer's reasonable expectation that expenditures for costs of the Project would be reimbursed with Proceeds of an obligation. Such resolution was not an official intent declared as a matter of course or in an amount substantially in excess of the amount expected to be necessary for the Project. Neither the Issuer nor the Borrower has engaged in a pattern of failure to reimburse actual original expenditures covered by official intents. [The Borrower expects that it will use Proceeds of the Bonds in the amount of approximately \$[] to reimburse itself for expenditures paid prior to the Issue Date of the Bonds.] Such reimbursed portion will be treated as spent for purposes of the "Funds—Project Fund" subparagraph herein and the "Compliance with Rebate Requirements; Rebate Fund" paragraphs herein.

(d) Allocations and Accounting. The Proceeds of the Bonds will be allocated to expenditures not later than 18 months after the later of the date the original expenditure is made or the date the Project is Placed in Service, but in no event later than the date that is 60 days after the fifth anniversary of the Issue Date of the Bonds or the retirement of the Bonds, if earlier; provided that, if such allocation is made pursuant to a reimbursement expenditure described above, such reimbursement allocation will in no event be made later than the date that is three years after the date each such original expenditure is paid. The Borrower hereby elects to consistently allocate the expenditure of Proceeds of the Bonds to Qualified Project Costs of the Project. No Proceeds of the Bonds will be allocated to any expenditures to which Proceeds of any other tax-exempt obligations have heretofore been allocated.

10. Issue Price. In accordance with section 1.148-1(f)(2)(iv) of the Regulations, the Issuer hereby identifies in its books and records maintained for the Bonds the rule the Issuer will use to determine the Issue Price for each maturity of the Bonds is the rule set forth in the second sentence of section 1.148-1(f)(2)(i) of the Regulations, i.e. the Issue Price is the price paid by the single buyer. Based on the representations set forth in Exhibit A hereto, the aggregate Issue Price of the Bonds is \$[7,950,000]. The Issue Price of the Bonds represents the Stated Redemption Price at Maturity.

11. Yield on the Bonds. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) The Yield on the Bonds will be computed separately for each computation period. For the purposes of this Agreement, the Yield on the Bonds for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all payments of principal and interest on the Bonds that are attributable to the computation period, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price (or deemed Issue Price, as determined by section 1.148-4(c)(2)(iv) of the Regulations) of the Bonds as of the first day of the computation period. For each group of substantially identical Bonds, the Issue Price is the first price at which the Bonds were sold to the Bank. The Bank intends to hold the Bonds for its own account. The Bonds are not being offered to the public and are not being issued in exchange for property.

(b) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Bonds, calculated in the manner set forth above, is [Bond Yield] percent.

(c) The Borrower and the Swap Counterparty have entered into the Swap. The Borrower has entered into the Swap primarily to modify the risk of interest rate changes on the Bonds. As described more fully in the Qualified Hedge Identification Certificates attached hereto as Exhibit C and D, respectively, (i) payments under the Swap will be made to coincide with interest payments on the Hedged Bonds, (ii) the Swap will be for a period of years not longer than the term of the Hedged Bonds, (iii) all of the terms of the Swap are at fair market value, (iv) the Swap will not contain a significant investment element, (v) no payments have been or will be made or received to acquire the Swap, and (vi) the

Swap Counterparty is not a related party to the Issuer or the Borrower. By executing the Qualified Hedge Identification Certificates, the Swap was identified by the Issuer and the Borrower on the books and records maintained for the Bonds not later than fifteen days after the date on which the Borrower and the Swap Counterparty entered into the Swap. Therefore, the Swap will be treated by the Issuer and the Borrower as a qualified hedge. The Borrower will not enter into a different hedging transaction with respect to the Bonds unless there is first received a Favorable Opinion of Bond Counsel. The Swap Counterparty has made certifications relevant to the treatment of the Swap for federal income tax purposes, such certificate being attached as Exhibit E.

12. Yield on the Bond Loan. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) The Bond Loan is allocated to the Bonds. The Yield on the Bond Loan is computed using the same compounding interval and financial conventions used to compute the Yield on the Bonds. For the purposes of this Agreement, the Yield on the Bond Loan is the discount rate that, when used in computing the present value as of the Issue Date of the Bonds of all receipts with respect to the Bond Loan, produces an amount equal to the present value, using the same discount rate, of the aggregate payments with respect to the Bond Loan as of the Issue Date of the Bonds. The aggregate payments made to the Borrower with respect to the Bond Loan include no payments other than the “purchase price” of the Bond Loan. The purchase price of the Bond Loan is the amount loaned to the Borrower by the Issuer on the Issue Date of the Bonds, i.e. \$[7,950,00].

(b) The Bond Loan is a purpose investment that the Issuer intends to treat as a “program investment” within the meaning of section 1.148-1 of the Regulations, because it is part of a governmental program (i) that involves the origination or acquisition of purpose investments; (ii) in which at least 95 percent of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, organizations exempt from tax under section 501(c)(3) of the Code, persons who provide housing and related facilities, or any combination of the foregoing; (iii) in which at least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption; and (iv) in which the program documents prohibit any obligor on a purpose investment financed by the program or any “related party,” within the meaning of section 1.150-1(b) of the Regulations, to that obligor from purchasing Bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor. The Issuer has not waived the right to treat the Bond Loan as a program investment.

(c) The receipts from the Borrower with respect to the Bond Loan include interest and principal payments with respect to the Bond Loan and the Qualified Administrative Costs paid by the Borrower, and the Qualified Administrative Costs paid

by the Borrower have been taken into account, as provided by 1.148-5(e) of the Regulations, for purposes of computing the yield on the Bond Loan. Because the Issuer intends to treat the Bond Loan as a “program investment” within the meaning of section 1.148-1 of the Regulations, the Qualified Administrative Costs do not include the costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Bond Loan, which amounts are set forth in Exhibit F hereto.

(d) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Loan, calculated in the manner set forth above, is [Loan Yield], which does not exceed than the Yield on the Bonds by more than 1.5 percentage points.

13. Investment of Proceeds Pending Expenditure; No Arbitrage. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) Investment Proceeds. Amounts on deposit in the Project Fund may be comprised of Proceeds of the Bonds and amounts that are not Proceeds of the Bonds or any tax-exempt obligation. If Proceeds of the Bonds and amounts that are not Proceeds of the Bonds are commingled, the Borrower will take into account for purposes of its covenant to comply with the arbitrage and rebate requirements that Proceeds of the Bonds and amounts that are not Proceeds of the Bonds have been commingled as an investment. Investment Proceeds resulting from the investment of any Proceeds of the Bonds pending expenditure of such Proceeds for Project Costs will be used to pay Qualified Project Costs or, if not used to pay Qualified Project Costs, such amounts will be treated as “bad costs.”

(b) Minor Portion and Yield Reduction Payments. All Gross Proceeds of the Bonds will be invested in accordance with the “Funds” paragraph herein. To the extent such amounts remain on hand following the periods set forth in the “Funds” paragraph herein or exceed the limits set forth in the “Funds” paragraph herein, such amounts will be invested at a restricted Yield as set forth in such paragraph; provided, however, that an amount not to exceed the Minor Portion may be invested at a Yield that is higher than the Yield on the Bonds and, provided further, that, if permitted by section 1.148-5(c) of the Regulations, the Yield restriction requirements may be satisfied by making Yield Reduction Payments to the federal government.

(c) Bonds Are Not Hedge Bonds. Not more than 50 percent of the Proceeds of the Bonds will be invested in a Nonpurpose Investments having a substantially guaranteed Yield for four years or more. Further, at least 85 percent of the spendable Proceeds of the Bonds are reasonably expected to be used to carry out the governmental purposes of the Bonds within the three-year period beginning on the Issue Date of the Bonds.

(d) No Arbitrage. On the basis of the facts, estimates and circumstances set forth in this Agreement, it is expected by the Issuer and the Borrower that the Gross Proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148 of the Code. To the best of the knowledge and belief of the undersigned representatives of the Issuer and the Borrower, there are no other facts, estimates or circumstances that would materially change such expectations. Except as provided in the Indenture and the Bond Loan Agreement, the

Borrower will not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under the Bond Loan Agreement or the note relating to the Bond Loan, will not establish any segregated reserve or similar fund for such purpose and will not prepay any such amounts in advance of the redemption date of an equal principal amount of the Bonds, unless in each case there will have been delivered a Favorable Opinion of Bond Counsel. The Borrower will not, at any time prior to the final maturity of the Bonds, direct or permit the Trustee to invest Gross Proceeds of the Bonds in any investment (or to use Gross Proceeds of the Bonds to replace money so invested), if as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Bonds to stated maturity, except as permitted by section 148 of the Code. The Issuer and the Borrower further covenant and agree that each will comply with and will take all action reasonably required to ensure that the Trustee complies with all applicable requirements of section 148 of the Code relating to the Bonds and the interest thereon.

14. Covenants of Trustee Relating to Investment of Proceeds. The Trustee will invest funds held under the Indenture in accordance with the respective terms of the Indenture and this Agreement, which covenant will extend throughout the term of the Bonds, to all funds and accounts created under the Indenture and this Agreement and all moneys on deposit to the credit of any fund or account.

Notwithstanding any other provisions of the Indenture or of this Agreement, the Trustee will not make or cause to be made any investment or other use of the moneys in the funds or accounts that would cause the Bonds to be classified as “arbitrage bonds” within the meaning of section 148 of the Code or would cause the interest on the Bonds to be includable in gross income for federal income tax purposes. This covenant will extend, throughout the term of the Bonds, to all funds created under the Indenture, and all moneys on deposit to the credit of any fund. Pursuant to this covenant, with respect to the investments of the funds and accounts under the Indenture, the Trustee obligates itself to comply throughout the term of the Bonds with the requirements of section 148 of the Code.

Should the Issuer or the Borrower deliver notice (in the manner required under the Indenture or the Bond Loan Agreement, as applicable) to the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so deliver) or should the Trustee receive an opinion of Bond Counsel to the effect that any proposed investment or other use of Proceeds of the Bonds would cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code, then the Trustee will comply with any written direction of the Borrower regarding such investment or use so as to prevent the Bonds from becoming an “arbitrage bond.”

The Issuer and the Borrower agree that, in complying with the provisions set forth under this subparagraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent the Trustee materially follows the written directions of the Borrower or the Issuer.

15. Compliance with Yield Reduction and Rebate Requirements; Rebate Fund.

(a) Covenant to Comply with Rebate Requirements. The Issuer and the Borrower covenant to comply with the requirement that (i) if Gross Proceeds of the Bonds have been invested at a Yield that is “materially higher” the Yield on the Bonds and Yield Reduction Payments are permitted under section 1.148-5(c)(3) of the Regulations, Yield Reduction Payments be made to the federal government and (ii) “rebateable arbitrage earnings” on the investment of the Gross Proceeds of the Bonds, within the meaning of section 148(f) of the Code, be rebated to the federal government.

(b) Rebate Fund. The Indenture established the Rebate Fund which will be maintained and held in trust by the Trustee and which will be disbursed and applied only as herein authorized in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph. Notwithstanding anything herein to the contrary, all provisions of the Indenture relating to the general administration of the funds created thereunder will apply to the Rebate Fund, and the Trustee is afforded all the rights, protections and immunities otherwise accorded to it thereunder as if the provisions set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph were set forth in the Indenture.

(c) Delivery of Documents and Money by Borrower on Computation Dates. The Borrower will deliver to the Trustee and the Issuer, within 55 days after each Computation Date:

(i) a statement, signed by an officer of the Borrower, stating the Rebate Amount as of such Computation Date and the amount of any Yield Reduction Payments due; and

(ii) (A) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90 percent of the Rebate Amount and Yield Reduction Payments due as of such Installment Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations), made to the United States of America or (B) if such Computation Date is the Final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount and Yield Reduction Payments due as of such Final Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations) made to the United States of America; and

(iii) an IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (“Form 8038-T”) properly signed and completed as of such Computation Date.

(d) Administration of Rebate Fund and Payment of Rebate.

(i) The Trustee will deposit or transfer to the credit of the Rebate Fund each amount delivered to the Trustee by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. Within five days after each receipt or transfer of funds to the Rebate Fund, the Trustee will withdraw such funds from the Rebate Fund and pay such funds to the United States of America. The Trustee may conclusively rely on the instructions of the Borrower with regard to any actions to be taken by it pursuant to this paragraph and will have no liability for any consequences of any failure of the Borrower to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided herein, the Trustee will have no duty or responsibility with respect to the Rebate Fund or the Borrower's duties and responsibilities with respect thereto except to follow the Borrower's specific written instructions related thereto.

(ii) Moneys and securities held by the Trustee in the Rebate Fund will not be deemed funds of the Bonds and are not pledged or otherwise subject to any security interest in favor of the owners of the Bonds to secure the Bonds or any other obligations.

(iii) Moneys in the Rebate Fund will be separately invested and reinvested by the Trustee, at the written direction of the Borrower, in Permitted Investments, subject to the Code. The Trustee will sell and reduce to cash a sufficient amount of such Permitted Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(iv) The Borrower will provide to the Trustee and the Trustee will keep such records of the results of the computations made pursuant to this paragraph for a period of three years after the last Bond and any tax-exempt obligations issued to refinance the Bonds is retired. The Trustee will keep and make available to the Issuer and the Borrower such records concerning the investments of Gross Proceeds of the Bonds and the investments of earnings from those investments as may be requested by the Issuer or the Borrower in order to enable the Borrower to make the computations required under section 148(f) of the Code.

(e) Correction of Underpayments. If the Borrower discovers or is notified as of any date that any amount required to be paid to the United States of America pursuant to this Agreement has not been paid as required or that any payment paid to the United States of America pursuant to this Agreement has failed to satisfy any requirement of section 148(f) of the Code or section 1.148-3 of the Regulations (whether or not such failure is due to any default by the Borrower, the Issuer, or the Trustee), the Borrower will (i) deliver to the Trustee (for deposit to the Rebate Fund) and cause the Trustee to pay to the United States of America from the Rebate Fund (A) the Rebate Amount or Yield Reduction Payments due that the Borrower failed to pay, plus any interest specified in section 1.148-3(h)(2) of the Regulations, if such correction payment is delivered to and received by the Trustee within 175 days after such discovery or notice, or (B) if such correction payment is not delivered to and received by the Trustee within 175 days after such discovery or

notice, the amount determined in accordance with clause (A) of this subparagraph plus the 50 percent penalty required by section 1.148-3(h)(1) of the Regulations, and (ii) deliver to the Trustee and the Issuer a Form 8038-T completed as of such date. If such Rebate Amount or Yield Reduction Payments, together with any penalty and/or interest due, is not paid to the United States of America in the amount and manner and by the time specified in the Regulations, the Borrower will take such steps as are necessary to prevent the Bonds from becoming “arbitrage bonds” within the meaning of section 148 of the Code.

(f) Fees and Expenses. The Borrower agrees to pay all of the fees and expenses of Bond Counsel, the Rebate Analyst, and any other necessary consultant employed by the Borrower, the Trustee, or the Issuer in connection with computing the Rebate Amount and the Yield Reduction Payments.

(g) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Bonds that is not purchased at fair market value (as defined in section 1.148-5(d)(6)(iii) of the Regulations) or includes terms that the Borrower would not have included if the Bonds were not subject to section 148(f) of the Code.

(h) Amounts Not Required in Certain Circumstances.

(i) Notwithstanding the foregoing, the Borrower will not be required to perform the obligations set forth in this “Compliance with Rebate Requirements; Rebate Fund” paragraph, except for the obligation to retain accounting records and the payment of expenses as described herein, if (A) the Gross Proceeds of the Bonds have not been invested at a Yield that is “materially higher” the Yield on the Bonds and therefore is not required to pay Yield Reduction Payments and/or (B) the Borrower has not earned any rebatable arbitrage and, therefore, is not subject to the rebate obligation set forth in section 148(f) of the Code. To the extent that the Borrower will not be required to perform such obligations, the Borrower will send written notice to the Trustee and the Issuer within 55 days after the applicable Computation Date.

(ii) Notwithstanding anything to the contrary in this Agreement requiring a payment to be made based on the Rebate Analyst’s calculations showing a rebate being due, no payment will be made by the Trustee to the United States of America if the Borrower furnishes to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. In such event, the Borrower will be entitled to withdraw funds from the Rebate Fund to the extent provided in such Favorable Opinion of Bond Counsel.

(i) Trustee Reliance on Written Directions. The Issuer and the Borrower agree that, in complying with the provisions set forth under this paragraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent it materially follows the written directions of the Borrower, the Issuer, or the Rebate Analyst.

16. Funds.

(a) Project Fund. All of the Proceeds of the Bonds in the Project Fund are expected to be invested and disbursed as described in section 5.02 the Indenture to pay Project Costs. The Borrower (i) reasonably expects to allocate at least 85 percent of the Net Proceeds of the Bonds to expenditures on capital projects of the Project prior to the date that is three years after the Issue Date of the Bonds, (ii) has incurred, or reasonably expects to incur within six months after the Issue Date of the Bonds, a binding obligation to a third party that is not subject to any contingencies within the control of the Borrower pursuant to which the Borrower is obligated to expend at least five percent of the Net Proceeds of the Bonds on capital projects of the Project, and (iii) reasonably expects that the acquisition, rehabilitation, and equipping of the Project will proceed with due diligence to completion and the Net Proceeds of the Bonds are reasonably expected to be expended on the Project with reasonable dispatch; therefore, all of such amounts may be invested without regard to Yield restriction. Any amounts not so expended prior to the applicable dates set forth in the preceding sentence will thereafter be invested at a Yield that is not “materially higher” than the Yield on the Bonds, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(b) Revenue Fund. Amounts on deposit in the Revenue Fund will be used for the purposes and in the order set forth in Section 5.03 of the Indenture. There is no assurance that amounts on deposit in the Revenue Fund will be available to pay debt service on the Bonds.

(c) Bond Fund. Amounts on deposit in the Bond Fund will be used for the purposes set forth in Section 5.04 of the Indenture.

(i) Amounts in the Interest Account and the Principal Account of the Bond Fund will be used primarily to achieve a proper matching of payments made pursuant to the Bond Loan Agreement and debt service on the Bonds within each Bond Year. Any amounts in the Bond Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Bonds, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(ii) Any amounts held in the Redemption Account of the Bond Fund will be used to effect a redemption of the Bonds in accordance with Section 3.01 of the Indenture. Any amounts in the Redemption Account will be used within 13 months of receipt of amounts in such account.

(d) Rebate Fund. Amounts on deposit in the Bond Fund will be used for the purposes set forth in Section 5.07 of the Indenture. The Rebate Fund will be used in the event the Borrower is required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the

Indenture; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Bonds.

(e) Restoration Fund. Amounts on deposit in the Restoration Fund, if created, will be used for the purposes and in the order set forth in Section 5.08 of the Indenture. There is no assurance that amounts on deposit in the Restoration Fund will be available to pay debt service on the Bonds.

(f) Costs of Issuance Fund. Amounts on deposit in the Costs of Issuance Fund used for the purpose of paying Costs of Issuance as set forth in Section 5.10 of the Indenture. Amounts remaining in the Costs of Issuance Fund after the payment of all Costs of Issuance, and in any event not later than six months following the Closing Date of the Bonds, will be (i) to the extent such amounts represent Proceeds of the Bonds, transferred to the Project Account of the Project Fund and (ii) to the extent such amounts represent amounts that are not Proceeds of the Bonds, transferred to the Borrower. There is no assurance that amounts on deposit in the Costs of Issuance Fund will be available to pay debt service on the Bonds.

17. Replacement Proceeds. The Issuer and the Borrower hereby represent as follows:

(a) No Sinking Funds. Other than the Bond Fund, there is no debt service fund, redemption fund, reserve fund, replacement fund, or similar fund reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds.

(b) No Pledged Funds. Other than amounts in the Bond Fund, there is no amount that is directly or indirectly pledged to pay principal or interest on the Bonds, or to a guarantor of the Bonds, such that such pledge provides reasonable assurance that such amount will be available to pay principal or interest on the Bonds if the Issuer encounters financial difficulty. For purposes of this certification, an amount is treated as so pledged if it is held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the holders or the guarantor of the Bonds.

(c) No Other Replacement Proceeds. There are no other Replacement Proceeds allocable to the Bonds because the Issuer reasonably expects that the term of the Bonds will not be longer than is reasonably necessary for the governmental purpose of the Bonds. Furthermore, even if the Bonds were outstanding longer than necessary for the purpose of the Bonds, no Replacement Proceeds will arise because the Issuer reasonably expects that no amounts will become available during the period that the Bonds remain outstanding longer than necessary based on the reasonable expectations of the Issuer as to the amounts and timing of future revenues. The Bonds would be issued to achieve the governmental purpose of the Bonds independent of any arbitrage benefit as evidenced by the expectation that the Bonds reasonably would have been issued if the interest on the Bonds were not excludable from gross income (assuming that the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate and that tax credits issued under section 42 of the Code would be available in connection therewith).

18. Not an Abusive Transaction. The Issuer and the Borrower hereby represent as follows:

(a) General. A device has not been and will not be employed in connection with the issuance of the Bonds to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Furthermore, no action taken in connection with the Bonds is or will be an abusive arbitrage device by having the effect of (i) enabling the Issuer or the Borrower to exploit, other than during an allowable temporary period, the difference between tax-exempt and taxable interest rates to obtain a material financial advantage (including as a result of an investment of any portion of the Gross Proceeds of the Bonds over any period of time, notwithstanding that, in the aggregate, the Gross Proceeds of the Bonds are not invested in higher yielding investments over the term of the Bonds) and (ii) overburdening the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Bonds, based on all the facts and circumstances. Specifically, (A) the primary purpose of each transaction undertaken in connection with the issuance of the Bonds is a bona fide governmental purpose; (B) each action taken in connection with the issuance of the Bonds would reasonably be taken to accomplish the governmental purposes of the Bonds if the interest on the Bonds were not excludable from gross income for federal income tax purposes (assuming the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate on the Bonds); and (C) the Proceeds of the Bonds will not exceed by more than a Minor Portion the amount reasonably anticipated to be necessary to accomplish the governmental purposes of the Bonds and will in fact not be substantially in excess of the amount of Proceeds allocated to expenditures for the governmental purposes of the Bonds.

(b) No Sinking Fund. No portion of the Bonds has a term that has been lengthened primarily for the purpose of creating a sinking fund or similar fund with respect to the Bonds.

(c) No Window. No portion of the Bonds has been structured with maturity dates the primary purpose of which is to make available released revenues that will enable the Issuer to avoid transferred proceeds or to make available revenues that may be invested to be ultimately used to pay debt service on another issue of obligations.

(d) No Disposition. No portion of the Project is reasonably expected to be disposed of while the Bonds are outstanding.

19. The Project. The Borrower hereby represents and covenants as follows:

(a) The Project will be comprised of (i) Units, none of which will be owner-occupied other than any functionally related and subordinate Units used by management for the purpose of housing any resident managers, security personnel or maintenance personnel that is reasonably required for the Project, and (ii) facilities, all of which are functionally related and subordinate to the aforementioned Units (i.e., facilities that are of a size and character commensurate with the size and character of such Units). All Units in the Project will be rented to individuals or families for residential occupancy.

(b) There has been and will be no substantial deviation from the description and location of the Project and the Borrower, operator or manager set forth in the notice of hearing published with respect to the Bonds for purposes of satisfying the requirements of section 147(f) of the Code.

(c) The Project will be designed and equipped and will be owned, maintained and operated on a continuous basis in accordance with the Bond Loan Agreement and the Regulatory Agreement. For purposes of this subparagraph, each of the enumerated types of facilities includes the interior furnishings of such facility (including the facility's plumbing, electrical and decorating costs) and the structural components required for the facility (including the facility's walls, ceilings and special enclosures). Each such enumerated type of facility includes only those normal components of the structure in which it is located, such as the structure's structural supports, to the extent that those components are required because of the facility. The recreational facilities, if any, included as part of the Project will be available only to residential tenants and their guests and no separate fee will be required for the use of such facilities.

(d) Except to the extent that any Unit is a single room occupancy unit under section 42 of the Code, each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Specifically, each Unit will contain a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, full-size refrigerator and sink, all of which are separate and distinct from the facilities included in other Units.

(e) Parking spaces included in the Project are functionally related and subordinate to the Units included in the Project in that they are no greater in number than is normally appropriate for a residential rental facility that is of the size of the Project. Only tenants, prospective tenants, guests of tenants, employees of the Borrower, and employees of the manager are expected to use these parking spaces.

(f) If the Project contains a clubhouse, exercise or similar recreational facility, such facility exists as a tenant amenity and may be used by any tenant free of any separate charge and will be constructed for the exclusive use of tenants of the Project and their guests. Such facility, if any, is of a character and size commensurate with the character and size of the Project and will not be open to the general public on a membership basis.

(g) The Project will not include any nonresidential or commercial space, including particularly, without limitation, any other space or facility not described in this paragraph.

(h) No continual or frequent skilled or unskilled nursing services will be available at the Project, although the tenants will be permitted to engage such services from providers that are not affiliated with the Borrower or the manager. Thus, neither the Borrower nor the manager, nor any Related Person to either the Borrower or the manager, will provide any assistance to any tenant in connection with his or her activities of daily living, other than concierge and valet services. The Project will not be licensed as a

convalescent or nursing home, continuing care facility, personal care facility, special care facility or other assisted living facility under State law.

20. Tenant Income Certifications. The Borrower hereby represents and covenants as follows:

(a) The Borrower will obtain and maintain tenant income certifications in a form that satisfies the requirements of section 1.103-8(b)(8) of the Regulations demonstrating that the 40-60 Test is met with respect to the occupied Units continuously throughout the Qualified Project Period [; provided that, if applicable, compliance with such requirement will not be required during the twelve-month “transition period” beginning on the Issue Date of the Bonds, as set forth in Revenue Procedure 2004-39, 2004 C.B. 49.]

(b) The Borrower will ensure that each person who is intended to be a Qualifying Tenant will sign and deliver to the Borrower or a manager of the Project a tenant income certification in the form required by the Regulatory Agreement. In addition, the Borrower will ensure that such person will provide whatever other information, documents or certifications are deemed necessary to substantiate the tenant income certification.

(c) The Borrower will timely file, or take such actions as are necessary to cause any other person who is properly treated as the “operator” for purposes of section 142(d)(7) of the Code to file timely, the annual certifications described in section 142(d)(7) of the Code (currently, IRS Form 8703, Annual Certificate of Residential Rental Project).

(d) For a period of at least three years after the date the Bonds are retired, a tenant income certification in the form required by the Regulatory Agreement will at all times be maintained on file at the applicable location for the Project with respect to each Qualifying Tenant who resides or has resided in a Unit.

21. Form of Lease. The Borrower will ensure that the term of a lease of any Unit will be for a term of not less than six months, subject to the provision that any lease may be terminated if the tenant’s physical condition no longer permits full-time residence in the Project; provided, however, that the form of lease to be utilized by the Borrower in renting any Units to a person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the tenant income certification.

22. Change in Use. The Borrower acknowledges that any failure to satisfy the applicable requirements of sections 103 and 142 through 150, inclusive, of the Code, including the 40-60 Test, with respect to the Project will be treated as a change in use for purposes of section 150(b)(2) of the Code with the result that no deduction will be allowed for federal income tax purposes for interest paid by the Borrower with respect to the portion of the Bond Loan that is allocable to Proceeds of the Bonds that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date that the Project meets such requirements.

On the earlier of (a) the date on which the Borrower reasonably determines that the Project will not be completed or (b) the date on which the Project is Placed in Service, the Borrower will identify the amount of unspent Net Proceeds of the Bonds, if any, and will use such amount to redeem or, if not permitted by the terms of the Bonds, defease the Bonds, all in accordance with the requirements of section 1.142-2 of the Regulations, the Indenture and the Bond Loan Agreement, as applicable, including the requirement that, if a defeasance is necessary, timely written notice be provided to the IRS.

23. Cashflow Sufficiency. The Borrower reasonably expects that the cash flow from the Project on an annual basis (excluding cash generated from the investment of nonoperating funds or other investment funds maintained by the Borrower) will be sufficient to pay annual debt service on the Bond Loan during each year. Accordingly, the Borrower expects that debt service on the Bond Loan will not be paid, directly or indirectly, from non-operating or other investment funds maintained by the Borrower or any Related Person to the Borrower. Except for the funds described in the “Funds” paragraph above, the Borrower does not expect to create or establish, or otherwise set aside or dedicate, any fund or account that is expected to be used to pay principal or interest on the Bonds or to be pledged, directly or indirectly, to the payment of principal or interest on the Bonds. Investment Proceeds of the Bonds and amounts earned from the investment of such Investment Proceeds will not be commingled with other receipts or revenues of the Borrower.

24. Record Retention. The Issuer, the Borrower and the Trustee will retain or cause to be retained all pertinent and material records relating to the use of the Project, the investment, use and expenditure of the Proceeds of the Bonds and the Project and the calculation of rebate in connection therewith until three years after the Bonds, including any tax-exempt obligations issued to refinance the Bonds, are redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Issuer to retrieve and reproduce such books and records in the event of an examination of the Bonds by the IRS.

25. Examination by IRS. The Borrower acknowledges that, in the event of an examination by the IRS of the exclusion of interest on the Bonds from the gross income of the owners thereof for federal tax purposes, the Issuer will likely be treated as the “taxpayer”, and the Borrower agrees to respond in a commercially reasonable manner on behalf of, and at the direction of, the Issuer (and in consultation with the Trustee, who will have the right to participate in all related proceedings (including tax court challenges and appeals)) to such examination and to pay the costs of the counsel selected by the Issuer to provide a defense regarding the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes. THE BORROWER WILL INDEMNIFY AND HOLD HARMLESS THE ISSUER AND THE TRUSTEE AGAINST ANY AND ALL COSTS, LOSSES, CLAIMS, DAMAGES, OR LIABILITY OF, OR RESULTING FROM, SUCH AN EXAMINATION AND THE SETTLEMENT THEREOF BY THE ISSUER AND THE TRUSTEE (INCLUDING THE COST OF THE ISSUER’S AND THE TRUSTEE’S LEGAL COUNSEL), EXCEPT AS A RESULT OF THE WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE ISSUER (WITH RESPECT TO INDEMNIFICATION OF THE ISSUER) OR THE GROSS NEGLIGENCE,

WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE TRUSTEE (WITH RESPECT TO INDEMNIFICATION OF THE TRUSTEE).

26. Post-Issuance Compliance Procedures. The Borrower has been provided with a copy of the Issuer's written post-issuance compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code. The Borrower has reviewed such written post-issuance compliance procedures and agrees to take such actions as required therein to maintain compliance with requirements in the Code. A copy of the current version of such procedures is attached hereto as Exhibit G.

27. Term. The obligations of the Issuer, the Borrower and the Trustee, under this Agreement will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion from gross income of interest on the Bonds for federal income tax purposes.

28. Amendments.

(a) To the extent any amendments to the Code or the Regulations, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, this Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as will be necessary to document such automatic amendment hereof.

(b) To the extent that the Code or the Regulations, or any amendments thereto, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All reasonable costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with an amendment to this Agreement will be paid by the Borrower and its successors in interest.

29. Remedies. The Issuer, the Trustee, and the Borrower each hereby agree that the remedies available under Section 8.01 of the Indenture and Section 6.02 of the Loan Agreement apply upon the occurrence of an Event of Default (as defined under the Indenture or the Loan Agreement, as applicable) resulting from an action or omission of an action by any party hereunder with respect to any provision of this Agreement.

30. Miscellaneous.

(a) Severability. If any provision of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such provision will not affect any of the remaining provision hereof.

(b) Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(c) Notices. All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto will be deemed given on the date on which the same will have been mailed by registered or certified mail, postage prepaid, addressed to such parties at the addresses set forth in the Indenture and the Bond Loan Agreement, as applicable.

(d) Successors and Assigns. The terms, provisions, covenants and conditions of this Agreement bind and inure to the benefit of the respective successors and assigns of the Issuer, the Borrower, and the Trustee.

(e) Headings. The headings of this Agreement are inserted for convenience only and will not be deemed to constitute a part of this Agreement.

(f) Governing Law. This Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Agreement will lie within the district courts of the State, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Issuer, the Borrower and the Trustee have caused this Agreement to be executed and delivered by duly authorized officers thereof as of Closing Date.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**, as Issuer

By: _____
Name: Monica Galuski
Title: Director of Bond Finance/Chief Investment
Officer

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

WILMINGTON TRUST, N.A., as Trustee

By: _____
Name:
Title:

EXHIBIT A

CERTIFICATE OF BANK

I, the undersigned officer of JP Morgan Chase Bank, a national banking association (the “Bank”), make this certificate in connection with the \$[7,950,000] Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (McMullen Square Apartments), Series 2019 (the “Bonds”). Each capitalized term used but not defined herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement to which this Exhibit A is attached (the “Tax Exemption Agreement”).

1. I hereby certify as follows as of the Issue Date of the Bonds:
 - (a) I am the duly chosen, qualified and acting officers of the Bank for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Bank. I am the officer of Bank charged, along with other officers of the Bank, with responsibility for the Bonds.
 - (b) The Bank is not acting as an Underwriter with respect to the Bonds. The Bank has no present intention to sell, reoffer, or otherwise dispose of the Bonds (or any portion of the Bonds or any interest in the Bonds).
 - (c) The Bank has purchased the Bonds from the Issuer for an aggregate purchase price of \$[7,950,000], which price includes no amount of Pre-Issuance Accrued Interest.
 - (d) The Bank is not a Related Party to TCD MCM, LP.
2. For purposes of paragraph 1 of this Certificate of Bank, the following definitions apply:
 - (a) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.
 - (b) “Related Party” means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).
 - (c) “Underwriter” means (i) any person that agrees pursuant to a written contract with the Issuer to participate in the initial sale of the Bonds to the Public, and (ii) any

person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Bank's interpretation of any laws, including specifically sections 103 and 148 of the Code and the Regulations thereunder. The undersigned understand that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Exemption Agreement and with respect to compliance with the federal income tax rules affecting the Bonds, and by Bracewell LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Form 8038, and other federal income tax advice it may give to the Issuer from time to time relating to the Bonds.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Bank has been duly executed as of the Closing Date.

JPMORGAN CHASE BANK,
a national banking association

By: _____
Name: _____
Title: _____

SCHEDULE I
TO CERTIFICATE OF THE UNDERWRITER

EXHIBIT B

CERTIFICATE OF FINANCIAL ADVISOR

I, the undersigned officer of Financial Advisor (the “Financial Advisor”), make this certificate in connection with the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (McMullen Square) Series 2019 (the “Bonds”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Agreement to which this Exhibit B is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Bonds:

1. I am the duly chosen, qualified and acting officer of the Financial Advisor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Financial Advisor.

2. The Issue Price plus any Pre-Issuance Interest on the Bonds, based on the representations of the Bank attached as Exhibit A to the Tax Exemption Agreement, is not more than \$[7,950,000].

3. For purposes of demonstrating the fact that yield on the Bond Loan is not higher than the yield on the Bonds by more than 1.5 percentage points, the Financial Advisor has calculated the Yield on the Bonds to be [Bond Yield] and the Yield on the Bond Loan to be [Loan Yield] percent. Accordingly, the Yield on the Bond Loan is not expected to exceed the Yield on the Bonds by more than 1.5 percentage points.

4. For purposes of determining the Yields in paragraph 3 above, the Financial Advisor has performed certain calculations relating to the Bonds and the Bond Loan. Such calculations are attached hereto as Schedule I. The Financial Advisor hereby represents that such calculations are based on assumptions and methodologies provided by Bond Counsel and are in all material respects consistent with the assumptions and methodologies set forth in the “Yield on the Bonds” and “Yield on the Bond Loan” paragraphs of the Tax Exemption Agreement. These calculations include calculations based upon assumptions, information, and estimates obtained from the Borrower and the Issuer, which the Financial Advisor, based on its experience with similar transactions, has no reason to believe are not reasonable in light of the relevant facts and circumstances. To the best of the Financial Advisor’s knowledge, as of the Issue Date of the Bonds, no fact or circumstance has come to the Financial Advisor’s attention that conflicts with the assumptions, information and estimates described in the preceding sentence.

5. As shown in Schedule I attached hereto, the Financial Advisor computed the Weighted Average Maturity of the Bonds, calculated in accordance with the provisions of the Tax Exemption Agreement, to be [WAM] years.

6. The Financial Advisor represents that to the best of its knowledge as of the Issue Date of the Bonds, the statements set forth in paragraphs (a) through (c) of the “Not An Abusive Transaction” paragraph of the Tax Exemption Agreement are true.

The Issuer may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the

conditions imposed by the Code on the exclusion of interest on the Bonds from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Bonds as excludable from gross income for federal income tax purposes and the preparation of the Form 8038.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Financial Advisor has been duly executed as of the Closing Date.

GEORGE K. BAUM & COMPANY

By: _____

Name: _____

Title: _____

Signature Page to Certificate of George K. Baum & Company

SCHEDULE I
TO CERTIFICATE OF FINANCIAL ADVISOR

Schedule I to Certificate of George K. Baum & Company

EXHIBIT C

ISSUER'S QUALIFIED HEDGE IDENTIFICATION CERTIFICATE

[See Attached]

EXHIBIT D

BORROWER'S QUALIFIED HEDGE IDENTIFICATION CERTIFICATE

[See Attached]

EXHIBIT E
CERTIFICATE OF SWAP COUNTERPARTY

[See Attached]

EXHIBIT F

SCHEDULE OF BOND LOAN COSTS

Paid Prior to Closing

Application Fee	\$2,000
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Paid at Closing

Issuer Issuance Fee	\$
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Issuer Administration Fee (first two years)	\$
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Issuer Compliance Fee (first year)	\$2,500
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Annual Fees

Issuer Administrative Fee (beginning January 1, 2021)	.10% per annum of the aggregate principal amount of the Bonds outstanding
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Issuer Compliance Fee (beginning January 1, 2022)	\$25 per unit in the Project
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EXHIBIT D
POST-ISSUANCE COMPLIANCE PROCEDURES

[See attached]

BOND PURCHASE AGREEMENT

**\$10,000,000 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE BONDS
(MCMULLEN SQUARE)
SERIES 2019**

_____, 2019
Texas Department of Housing and Community Affairs
Austin, Texas 78711

Ladies and Gentlemen:

JPMorgan Chase Bank, N.A., a national banking association (the “*Purchaser*”), offers to enter into the following agreement with the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the “*Issuer*”) and TCD MCM, LP, a Texas limited partnership (the “*Borrower*”), which, upon acceptance, will be binding upon the Issuer, the Borrower and the Purchaser. This offer is made subject to your acceptance of this Bond Purchase Agreement (this “*Bond Purchase Agreement*”) on or before _____, 2019. Reference is made to the Indenture of Trust, dated as of ____ 1, 2019 (the “*Indenture*”), between the Issuer and Wilmington Trust, National Association, a national banking association, as trustee (the “*Trustee*”), the Loan Agreement dated as of ____ 1, 2019 (the “*Loan Agreement*”) among the Issuer, the Purchaser and the Borrower, and the Construction Disbursement Agreement dated as of _____ 1, 2019 (the “*Construction Disbursement Agreement*”) between the Borrower and the Purchaser. All capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Indenture and Construction Disbursement Agreement.

SECTION 1. PURCHASE, SALE AND DELIVERY OF THE BONDS

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, in the Indenture and in the Loan Agreement, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby proposes to issue and agrees to sell to the Purchaser, the Issuer’s Multifamily Housing Revenue Bonds (McMullen Square) Series 2019 (the “*Bonds*”). Subject to the further conditions set forth in this Bond Purchase Agreement, the purchase price of the Bonds shall be advanced by the Purchaser on the Closing Date (as defined herein). The Bonds shall bear interest at the interest rate determined pursuant to the Indenture, and the purchase price thereof shall be advanced by the Purchaser on the Closing Date to the Trustee for the account of the Issuer at a price equal to par.

(b) The Bonds shall be substantially in the form described in, shall be issued and secured under the provisions of, and shall be payable and subject to redemption as provided in, the Indenture. The final terms and conditions of the Indenture shall be subject to the approval of

the Issuer and the Purchaser, and the obligations of the Issuer and the Purchaser thereunder and under this Purchase Agreement are expressly conditioned upon such approval. The issuance of the Bonds is authorized by virtue of the authority of the laws of the State of Texas, and particularly Chapter 2306, Texas Government Code as amended (the “Act”). The Bonds will be limited obligations of the Issuer payable solely from the Trust Estate. Proceeds of the sale of the Bonds will be used by the Issuer in accordance with the Indenture, and the Act to fund one or more loans to the Borrower in accordance with the terms of the Loan Agreement to be used to finance the costs of the acquisition and construction of the Project by the Borrower and the issuance of the Bonds.

(c) On _____, 2019 (such date being herein referred to as the “Closing Date”), the Purchaser will advance the full purchase price of the Bonds in the principal amount of \$10,000,000. The Bonds shall be in registered form, registered in the name of the Purchaser or its nominee, and in such denominations as set forth in the Indenture.

SECTION 2. REPRESENTATIONS AND COVENANTS

(a) The Issuer hereby confirms for the benefit of the Purchaser each of the representations of the Issuer set forth in Section 4.1 of the Loan Agreement as if and to the extent fully set forth in this Bond Purchase Agreement.

(b) The Borrower hereby confirms for the benefit of the Purchaser each of the covenants, representations and warranties of the Borrower set forth in Articles III and V of the Loan Agreement as if and to the extent fully set forth in this Bond Purchase Agreement.

(c) The Borrower hereby covenants that it will not (i) be or become subject at any time to any legal requirement, or list of any governmental agency (including, without limitation, the U.S. Office of Foreign Asset Control List) that prohibits or limits the Purchaser from making any advance or extension of credit to or for the benefit of the Borrower or from otherwise conducting business with the Borrower, or (ii) fail to provide documentary and other evidence of the Borrower’s identity as may be requested by the Purchaser at any time to enable the Purchaser to verify the Borrower’s identity or to comply with any applicable legal requirement, including, without limitation, Section 326 of the U.S.A. Patriot Act of 2001, 31 U.S.C. § 5318 (the “Patriot Act”).

SECTION 3. PRECONDITIONS TO CLOSING DATE. The Purchaser has entered into this Bond Purchase Agreement in reliance upon the representations, warranties and covenants of the Issuer and the Borrower contained herein and to be contained in the Indenture, the Loan Agreement and the other documents and instruments to be delivered on or prior to the Closing Date, as required hereunder, and upon the performance by the Issuer of its obligations hereunder prior to the Closing Date, as required hereunder. Accordingly, the Purchaser’s obligations under this Bond Purchase Agreement to advance the purchase price of the Bonds and to accept delivery of and to pay for the Bonds shall be subject to the performance of such obligations to be performed by the Issuer under the Indenture and by the Borrower hereunder and under the Loan Agreement on or prior to the Closing Date, and shall also be subject to the following conditions:

(a) The representations of the Issuer contained herein and in the Indenture and Loan Agreement shall be true, complete and correct on the date hereof, and on and as of the Closing Date with the same effect as if made on the Closing Date;

(b) The representations, warranties and covenants of the Borrower contained herein and in the Loan Agreement and Construction Disbursement Agreement shall be true, complete and correct in all material respects on the date hereof, and on and as of the Closing Date with the same effect as if made on the Closing Date;

(c) On the Closing Date, the Indenture shall have been duly authorized, executed and delivered by the respective parties thereto, shall be in form and content satisfactory to the Purchaser and the Issuer, and shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to by the Issuer and Purchaser;

(d) On the Closing Date, the Mortgage shall have been delivered for recording and the title insurer has committed to issue a Title Policy in an amount equal to the committed principal amount of the Bonds insuring the Mortgage as a second priority lien on the leasehold interest in the Project;

(e) On the Closing Date, the Bond Documents shall have been duly authorized, executed and delivered by the respective parties thereto, shall be in form and content satisfactory to the Purchaser and Issuer, and shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to by the Purchaser;

(f) On the Closing Date, the Issuer shall cause the Trustee to deposit all funds held under the Indenture pursuant to the terms of the Indenture;

(g) On the Closing Date, all approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter, which would constitute a condition precedent to the performance by the Issuer of its obligations under this Bond Purchase Agreement, the Bonds and the performance by the Issuer and the Borrower of their respective obligations under the Indenture and the Loan Agreement and Bond Documents will have been obtained, and any consents, approvals and orders so received will be in full force and effect;

(h) On the Closing Date, the Purchaser shall have received approving opinions, dated the Closing Date and addressed to the Issuer, of Bracewell LLP, bond counsel for the Issuer, and reliance letters of such counsel dated the Closing Date and addressed to the Purchaser to the effect that such respective approving opinion may be relied on by the Purchaser to the same extent as if such opinion were addressed to the Purchaser;

(i) On the Closing Date, the Purchaser shall have received an opinion with respect to the Borrower and the Guarantor dated the Closing Date and addressed to the

Issuer and the Purchaser, of counsel for the Borrower and the Guarantor to the effect that: (i) the Borrower and the Guarantor are duly organized and validly existing under the laws of the state of their respective organization; (ii) the Borrower has the full legal right, power and authority to enter into the Bond Documents to which it is a party and the Construction Disbursement Agreement to carry out the transactions contemplated thereby; (iii) the Borrower has duly authorized and executed such Bond Documents and Construction Disbursement Agreement and such documents constitute the valid and binding obligations of the Borrower, enforceable in accordance with their respective terms; (iv) the Guarantor has full legal right, power and authority to enter into the Guaranty of Payment, the Guaranty of Completion and the Environmental Indemnity (together the “Guaranties”); and (v) the Guarantor has duly authorized and executed such Guaranties and such Guaranties constitute the valid and binding obligation of the Guarantor, enforceable in accordance with their respective terms.

(j) On the Closing Date, pursuant to the terms of the Indenture and the Loan Agreement, funds shall have been deposited with the Trustee which are sufficient to pay the costs of issuance of the Bonds;

(k) On the Closing Date, there shall not exist any uncured default or Event of Default under the terms of the Indenture, the Loan Agreement or any of the other Bond Documents;

(l) On the Closing Date, the Purchaser shall have received and authorized a requisition in the form of Exhibit E to the Construction Disbursement Agreement; and

(m) On the Closing Date, each of the conditions for the disbursement of moneys from the funds and accounts established under Article IV of the Indenture from the proceeds of the Bonds purchased by the Purchaser shall have been satisfied.

4. FEES AND EXPENSES. The Purchaser shall be under no obligation to pay, and the Borrower shall pay or cause to be paid (out of proceeds of the Bonds or any other legally available funds of the Borrower) all expenses incident to the performance of the Issuer’s and the Borrower’s obligations hereunder, including, but not limited to, the cost of delivering the Bonds to the Purchaser, the fees and disbursements of the Trustee, Bond counsel, Issuer, Purchaser’s counsel, accountants, financial advisors and any other experts or consultants retained in connection with the Bonds, and any other expenses incurred in connection with the issuance of the Bonds. Whether or not the Bonds are delivered to the Purchaser as set forth herein, the Issuer shall be under no obligation to pay any costs or expenses relating to the issuance, sale and delivery of the Bonds.

5. NOTICES

(a) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (i) hand delivered, (ii) sent to the applicable address stated below by registered and certified mail, return receipt requested, (iii) by electronic transmission or such other means as shall provide the sender with documentary

evidence of such delivery, (iv) or overnight courier service, or (v) if delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery.

(b) The address to which notices, certificates and other communications hereunder are as follows:

If to the Issuer:

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Manager of Multifamily Bonds
Facsimile: (512) 475-1894
Email:

With a copy to:

Bracewell, LLP
111 Congress Avenue, Suite 2300
Austin, Texas 78701
Attention: Elizabeth Bowes, Esq.
Email: elizabeth.bowes@bracewell.com

If to the Purchaser:

JPMorgan Chase Bank, N.A.
Community Development Banking
300 South Grand Avenue, 4th Floor
Los Angeles, California 90071-3109
Attention: Raymond Junior, Executive Director
Email: raymond.junior@chase.com

With copies to:

JPMorgan Chase Bank, N.A.
Legal Department
4 New York Plaza, 21st Floor
Mail Code NY1-E089
New York, New York 10004-2413
Attention: Michael R. Zients, Executive Director
and Assistant General Counsel
Email: michael.r.zients@chase.com

and

Phillips Lytle LLP
1400 First Federal Plaza
Rochester, New York 14614
Attention: Thomas R. Burns, Esq.
Email: tburns@phillipslytle.com

If to the Trustee:

Wilmington Trust, N.A.
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Dayna Smith
Email: dsmith@wilmingtontrust.com

With a copy to:

Locke Lord LLP
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-6776
Attention: Kevin L. Twining, Esq.
Email: ktwining@lockelord.com

If to the Borrower:

TCD MCM, LP
c/o Triton Community Development LLC
14131 Yorba Street, Suite 104
Tustin, California 92780
Attention: William E. Rice, Managing Member
Email: brice@tritoncommunity.com

With copies to:

Hobson Bernardino & Davis LLP
Citigroup Center
444 South Flower Street, Suite 3100
Los Angeles, CA 90071
Attention: Jason Hobson, Esq.
Email: jhobson@hbdlegal.com

Shackelford, Bowen, McKinley & Norton, LLP
9201 N. Central Expressway, 4th Floor
Dallas, Texas 75231
Attention: John Shackelford, Esq.
Email: jshackelford@shackelfordlaw.net

Hunt Capital Partners Tax Credit Fund 27, LP
c/o Hunt Capital Partners, LLC
15190 Ventura Boulevard, Suite 100
Encino, California 91436
Attention: Jeffrey N. Weiss

Pillsbury Winthrop Shaw Pittman LLP
1200 South Street, NW
Washington, DC 20036
Attention: Craig A. de Ridder

6. AMENDMENT. This Bond Purchase Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and delivered by the parties hereto.

7. BINDING EFFECT. This Bond Purchase Agreement shall be binding upon and inure to the benefit of the Issuer, the Borrower and the Purchaser and their respective successors and assigns.

8. EXECUTION OF COUNTERPARTS. This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Bond Purchase Agreement by e-mail transmission, facsimile transmission or other means of communication capable of being evidenced by a paper copy shall be effective as delivery of manually executed counterpart.

9. APPLICABLE LAW. This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10. NO RECOURSE; SPECIAL OBLIGATION. All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Bond Purchase Agreement, the Bonds, the Indenture and Bond Documents executed by the Issuer and in the other documents and instruments connected herewith or therewith, and in any documents supplemental thereto shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, director, officer, agent, servant or employee of the Issuer in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Documents contained or otherwise based upon or in respect of the Indenture and the Bond Documents, or for any claim based hereon or thereon or otherwise in respect hereof or thereof, shall be had against any past, present or future member, director, officer, agent, servant or employee, as such, of the Issuer or of any successor public corporation or political subdivision or any Person executing any of the Indenture and the Bond Documents on behalf of the Issuer, either directly or through the Issuer or any successor public corporation or political subdivision or any Person so executing any of the Indenture and the Bond Documents on behalf of the Issuer, it being expressly understood that the Indenture and the Bond Documents and the Bonds issued thereunder are solely corporate obligations, and that no such personal liability whatever shall

attach to, or is or shall be incurred by, any such member, director, officer, agent, servant or employee of the Issuer or of any successor public corporation or political subdivision or any Person so executing any of the Indenture and the Bond Documents on behalf of the Issuer because of the creation of the indebtedness thereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Indenture and the Bond Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, director, officer, agent, servant or employee because of the creation of the indebtedness authorized by the Bond Documents, or under or by reason of the obligations, covenants or agreements contained in the Bond Documents or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution by the Issuer of the Bond Documents and the issuance, sale and delivery of the Bonds.

11. SEVERABILITY

(a) If any provision of this Bond Purchase Agreement shall, for any reason, be held or shall, in fact, be inoperative or unenforceable in any particular case, such circumstances shall not render the provision in question inoperative or unenforceable in any other case or circumstance or render any other provision herein contained on any provision of any of the other Bond Documents inoperative or unenforceable.

(b) The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections in this Bond Purchase Agreement shall not affect the remaining portion of this Bond Purchase Agreement or any part thereof.

12. SURVIVAL OF OBLIGATIONS. This Bond Purchase Agreement shall survive the purchase and sale of the Bonds and shall remain in full force and effect until the principal of the Bonds, together with the premium, if any, and interest thereon and all amounts payable under this Bond Purchase Agreement, the Indenture and the Bond Documents, shall have been irrevocably paid in full.

13. RECORDING AND FILING

(a) The Borrower shall record or file or cause to be recorded or filed, as the case may be, at the Borrower's expense, the Mortgage and all other security instruments and financing statements reasonably requested by the Purchaser with respect to the Bonds in such manner and in such places as may be required by law to perfect the liens and security interests contemplated herein and therein.

(b) The Purchaser is authorized to file all security instruments, including without limitation financing statements and continuation statements under the Uniform Commercial Code of the State of Texas, in such manner and in such places as may be required by law to protect and maintain in force all such liens and security interests. The Issuer and the Borrower hereby authorize the Purchaser to file such instruments and statements without execution thereof by the Issuer, the Trustee or the Borrower, and the Issuer shall have no liability to Purchaser if any such instrument or statement is not filed when required.

14. PATRIOT ACT NOTICES. The Purchaser hereby notifies the Borrower that pursuant to the requirements of Section 326 of the Patriot Act it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Purchaser to identify the Borrower in accordance with the Patriot Act.

15. EXPENSES; INDEMNITY; DAMAGE WAIVER

(a) The Borrower shall pay:

(i) all out-of-pocket expenses incurred by the Issuer and the Purchaser, including appraisal fees, inspection fees, inspecting engineer charges, title and escrow charges and original fees, reasonable charges and disbursements of counsel for the Issuer and the Purchaser in connection with the issuance, sale, purchase and securing of the Bonds, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and

(ii) all out-of-pocket expenses incurred by the Issuer and the Purchaser including the reasonable fees, charges and disbursements of any counsel in connection with the enforcement or protection of its rights in connection with the Indenture, this Bond Purchase Agreement or the other Bond Documents, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Bonds.

(b) The Borrower shall indemnify the Issuer and the Purchaser and their respective officers, directors, members, employees and agents (each of the forgoing being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, judgments, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnatee incurred by or asserted against any Indemnatee arising out of, in connection with or as a result of (i) the execution or delivery of this Bond Purchase Agreement or any agreement or instrument or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the transactions contemplated hereby, (ii) the use of the proceeds of the Bonds, or (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory regardless of any Indemnatee being a party thereto, except if such losses, claims, damages, judgments, liabilities and related expenses arise solely from the gross negligence or willful misconduct of any such Indemnatee.

16. RATE MANAGEMENT TRANSACTION. All Rate Management Transactions, if any, between the Borrower and the Purchaser or any Affiliate of the Purchaser are independent agreements governed by the written provisions of the Rate Management Transaction, which shall remain in full force and effect, unaffected by any payment, prepayment, acceleration, reduction, increase or change in the terms of the Financing Documents, except as otherwise expressly provided in the Rate Management Transaction, and any payoff statement from the Purchaser relating to the Bonds shall not apply to a Rate Management Transaction. The term “*Rate Management Transaction*” means (a) any transaction (including an agreement with respect

thereto) now existing or hereafter entered into between the Borrower and JPMorgan Chase Bank, N.A. and the Purchaser and/or its affiliates which is a rate swap, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, Cap, floor, collar, currency swap, cross-currency rate swap, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, whether index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions, or (b) any type of transaction that is similar to any transaction referred to in clause (a) above that is currently, or in the future becomes, recurrently entered into in the financial markets and which is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or derivatives are to be made, or any combination of the foregoing transactions.

17. PARTICIPATIONS. The Purchaser may at any time, without consent of the Issuer or the Borrower, sell participations to any Person (other than a natural Person, the Borrower, Guarantor or any Affiliate of the Borrower or Guarantor) (each a “Participant”) in all or a portion of the Bonds, provided that (a) Purchaser’s obligations under this Bond Purchase Agreement and other Bond Documents shall remain unchanged, (b) the Purchaser shall remain solely responsible to the other parties hereto for the performance of such obligations, (c) the Issuer and the Borrower shall continue to deal solely and directly with the Purchaser in connection with the Purchaser’s rights and obligations under this Bond Purchase Agreement and the other Bond Documents. Notwithstanding the foregoing, in order to be effective under this Bond Purchase Agreement, any sale of a participation interest, in whole or in part, with respect to Bonds owned by the Purchaser or the rights and obligations related to such Bonds, shall be subject to compliance by the Purchaser and the prospective transferee or assignee with the terms and conditions of Section 2.15 of the Indenture and shall require the execution and delivery by the Participant of a purchaser letter in the form of Exhibit C to the Indenture.

18. HEADINGS. The headings of the several sections in this Bond Purchase Agreement have been prepared for the convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Bond Purchase Agreement.

19. INCONSISTENT PROVISIONS. Any irreconcilable inconsistency or conflict between the terms of this Bond Purchase Agreement and the terms of the Indenture, the Loan Agreement, or the Construction Disbursement Agreement shall be governed and controlled by the terms of this Bond Purchase Agreement. Provided, however, nothing in this Section 19 shall be deemed to modify the terms of the Loan Agreement or Regulatory Agreement or affect the Issuer’s or Trustee’s rights with respect to the Reserved Rights of the Issuer.

20. EFFECTIVE DATE. This Bond Purchase Agreement shall become effective upon the execution of the acceptance hereof by the Issuer and Borrower and shall be valid and enforceable as of the time of such acceptance.

21. WAIVER OF SPECIAL DAMAGES. Except to the extent prohibited by applicable law, the Borrower shall not assert, and hereby waives, any claim against the Purchaser and its respective officers, directors, members, employees and agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Bond Purchase Agreement or any agreement or instrument contemplated hereby, the transactions, the Bonds or the use of the proceeds thereof.

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

[Signature Pages Follow]

VERY TRULY YOURS,

JPMORGAN CHASE BANK, N.A.

By: _____

Name: Raymond Junior

Title: Authorized Officer

[Signature Page to Bond Purchase Agreement]

Accepted as of the date first above written:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By: _____

Name: J. B. Goodwin

Title: Chair

[Signature Page to Bond Purchase Agreement]

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development LLC,
a California limited liability company,
its managing member

By: _____

Name: William E. Rice

Title: Managing Member

[Signature Page for Bond Purchase Agreement]

PROMISSORY NOTE

NOTE: THIS PROMISSORY NOTE MAY REQUIRE A BALLOON PAYMENT AT MATURITY

\$10,000,000

Houston, Texas

January 1, 2019

FOR VALUE RECEIVED, the undersigned ("**Borrower**") promises to pay to the order of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas, (the "**Issuer**"), as Issuer under that certain Indenture of Trust dated as of January 1, 2019 (the "**Indenture**") relating to the Issuer's Multifamily Housing Revenue Bonds (McMullen Square) Series 2019, issued in the principal amount of \$10,000,000 (the "**Bonds**"), c/o Wilmington Trust, National Association, at its offices at 15950 North Dallas Parkway, Suite 550, Dallas, TX 75248, or at such other place as the holder of this Note ("**Holder**") may from time to time designate in writing, the sum of TEN MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$10,000,000) in lawful money of the United States, with interest thereon from the date of disbursement until paid at the rates set forth below. Interest shall accrue on the outstanding principal amount from time to time calculated on the basis of a 360 day year comprised of twelve 30 day months, with interest for any partial calendar month calculated on the basis of a 365 or 366 day year and the actual number of days in that month (determined on a daily basis, the first such determination being made on the date Bondowner Representative advances any portion of the principal of this Note, and other determinations being made on the date upon which a change in such rate occurs).

This Note shall evidence an acquisition, construction and permanent loan to Borrower for the purpose of acquisition and rehabilitation of the Project (as defined in the Indenture), which loan is made with the proceeds of the Bonds to be purchased by JPMorgan Chase Bank, N.A. ("**Bondowner Representative**").

Payments on this Note are expected and intended to correspond to payments of interest, or principal and interest, as the case may be, on the Bonds, and this Note shall be interpreted consistent with this intent.

This promissory note is the "Note" attached to the Loan Agreement as Exhibit A, dated as of January 1, 2019 (as the same may be amended, modified or supplemented from time to time, the "Loan Agreement") between the Borrower, the Bondowner Representative and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

The principal amount and interest shall be payable on the dates and in the amounts set forth on Section 2.07 of the Loan Agreement and on such other dates, that principal and redemption price of, and interest on the Bonds, and the acceleration premium, if any, are payable, subject to prepayment as provided in the Indenture and the Loan Agreement.

This Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Bonds. All the terms, conditions and provisions of the Loan Agreement, the Indenture and the Bonds are hereby incorporated as a part of this Note.

Under certain circumstances, the Borrower may at its option and may be required to, prepay all or any part of the amount due on this Note, together with accrued interest thereon, as provided in the Loan Agreement.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay costs of collection and reasonable attorneys' fees in case of an Event of Default on this Note, as set forth in the Loan Agreement.

This Note shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to conflict of laws principles.

All agreements between Borrower and Issuer, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity hereof or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to Issuer exceed interest computed at the Maximum Rate (as defined below). If, from any circumstance whatsoever, interest would otherwise be payable to Issuer in excess of interest computed at the Maximum Rate, the interest payable to Issuer shall be reduced to interest computed at the Maximum Rate; and if from any circumstance Issuer shall ever receive anything of value deemed interest by applicable law in excess of interest computed at the Maximum Rate, an amount equal to any excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to Issuer shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed interest computed at the Maximum Rate. This section shall control all agreements between Borrower and Issuer, and any successive holder of this Note. The term "Maximum Rate" shall mean the highest lawful rate of interest applicable to the loan transaction evidenced by this Note taking into account whichever of applicable federal law or Texas law permits the higher rate of interest, and after also taking into consideration all compensation deemed interest under applicable law.

[Signature Page to Follow]

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

BORROWER:

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development, LLC, a California limited liability company, its managing member

By: _____
William E. Rice,
Managing Member

ENDORSEMENT

Pay to the order of Wilmington Trust, National Association., without recourse, as Trustee under the Indenture referred to in the within mentioned Agreement, as security for such Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: J.B. Goodwin
Title: Chair

Dated: _____, 2019

MCMULLEN SQUARE APARTMENTS
BOND LOAN

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Thomas R. Burns, Esq.

Phillips Lytle LLP

28 E. Main Street, Suite 1400

Rochester, New York 14614

**CONSTRUCTION AND PERMANENT DEED OF TRUST,
SECURITY AGREEMENT, ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING**

THE PROMISSORY NOTE SECURED BY THIS DEED OF TRUST MAY PROVIDE FOR A VARIABLE RATE OF INTEREST AND/OR A BALLOON PAYMENT AT MATURITY.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Loan Amount: [\$10,000,000]

Property Address: 537 North General McMullen Drive, San Antonio, Texas

THIS CONSTRUCTION AND PERMANENT DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("Deed of Trust"), is made as of _____ 1, 2019, to be effective as of the date of delivery of the Loan Agreement (as defined below), by TCD MCM, LP, a Texas limited partnership whose address is 14131 Yorba Street, Suite 104, Tustin, California 92780, ("Trustor") to _____, as Trustee, whose address for purposes of this instrument is _____, (the "Trustee"), for the benefit of TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS., a public and official agency of the State of Texas, as Issuer whose address is P.O. Box 13940, Austin, Texas 78711 (the "Issuer") under that certain Indenture of Trust (the "Indenture") dated as of _____ 1, 2019, relating to the Issuer's \$10,000,000 Multifamily Housing Revenue Bonds (McMullen Square) Series 2019 (the "Bonds") (Issuer is referred to herein as "Beneficiary").

Pursuant to the Indenture, the Beneficiary will assign its rights under this Deed of Trust and the other Loan Documents (as defined in the Indenture) to Wilmington Trust, National Association, a national banking association, as Trustee under the Indenture ("Bond Trustee"). In accordance with that certain Forward Bond Purchase Agreement dated as of _____ 1, 2019 (the "Forward Bond Purchase Agreement") by and among Trustor, JPMorgan Chase Bank, N.A., a national banking association (the "Bondholder Representative"), and Cedar Rapids Bank

and Trust Company (together with its successors, assignees and other transferees, "Permanent Lender"), Permanent Lender has agreed, subject to satisfaction of the terms and conditions set forth therein, to purchase the Bonds and in connection with such purchase, shall be assigned all right, title and interest of Bondholder Representative under the Indenture, the Loan Agreement (defined below) and the other Loan Documents).

ARTICLE 1

GRANTING CLAUSE

1. GRANTING CLAUSE. Trustor, in consideration of the acceptance by Trustee of the trust hereunder, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the obligations described in Article 3 below, irrevocably grants, bargains, sells, and conveys to Trustee and its successors in trust and assigns, forever, in trust, with power of sale, all of Trustor's estate, right, title, interest, claim and demand in and to the property listed below and the fee interest in the land in the City of San Antonio, County of Bexar, State of Texas, described on Exhibit A attached hereto (the "Land"), whether now existing or hereafter acquired (all of the property described in all parts of this Article 1 and all additional property, if any, described in Article 2 is herein called the "Property");

1.1 Land and Appurtenances. The Land and all tenements, hereditaments, rights-of-way, easements, appendages and appurtenances thereto belonging or in any way appertaining, including without limitation all of the right, title and interest of Trustor in and to any avenues, streets, ways, alleys, vaults, strips or gores of land adjoining the Land, all rights to water, water stock, drains, drainage and air rights relating to the Land, and all claims or demands of Trustor either in law or in equity in possession or expectancy of, in and to any of the aforesaid; and

1.2 Improvements and Fixtures. All buildings, structures and other improvements now or hereafter erected on the property described in Section 1.1 above, and all facilities, fixtures, machinery, apparatus, installations, goods, equipment, inventory, furniture and other property of whatsoever nature (including without limitation all heating, ventilating, air conditioning, plumbing, generating and electrical equipment, all elevators and escalators, all sprinkler systems, all engines and motors, all lighting, laundry, cleaning, life safety, fire prevention and fire extinguishing equipment, all ducts and compressors, all refrigerators, stoves, washers, dryers, dishwashers and other appliances, attached cabinets, partitions, rugs, carpets and draperies, all screens and other window treatments, all pool equipment and supplies, all communications equipment, all building materials and supplies, and all construction forms, tools and equipment), now or hereafter located in or used or procured for use in connection with that property, it being the intention of the parties that all property of the character hereinabove described which is now owned or hereafter acquired by Trustor and which is affixed or attached to, stored upon or used in connection with the property described in Section 1.1 above shall be, remain or become a portion of that property and shall be covered by and subject to the lien of this Deed of Trust, together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports and other work products relating to the

construction of the existing or any future improvements on the Land, any and all rights of Trustor in, to or under any architect's contracts or construction contracts relating to the construction of the existing or any future improvements on the Land, and any performance and/or payment bonds issued in connection therewith, together with all trademarks, trade names, copyrights, computer software and other intellectual property used by Trustor in connection with the Property; and

1.3 Enforcement and Collection. Any and all rights of Trustor without limitation to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil and gas rights and profits, insurance proceeds of any kind (whether or not Beneficiary requires such insurance and whether or not Beneficiary is named as an additional insured or loss payee of such insurance), condemnation awards and other moneys, payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any other agreement (including those described in Section 1.2 above) affecting or relating to any of the Property, to bring any suit in equity, action at law or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award or judgment, in the name of Trustor or otherwise, and to do any and all things which Trustor is or may be or become entitled to do with respect thereto, provided, however, that no obligation of Trustor under the provisions of any such agreements, awards or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Beneficiary; and

1.4 Accounts and Income. Any and all rights of Trustor in any and all accounts, deposit accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property; and

1.5 Leases. All of Trustor's rights as landlord in and to all existing and future leases and tenancies, whether written or oral and whether for a definite term or month to month or otherwise, now or hereafter demising all or any portion of the property described in Sections 1.1 and 1.2 above, including all renewals and extensions thereof and all rents, deposits and other amounts received or receivable thereunder. In accepting this Deed of Trust neither Beneficiary nor Trustee assumes any liability for the performance of any such lease; and

1.6 Books and Records. All books and records of Trustor relating to the foregoing in any form and all computer software necessary or useful to reading such books and records; and

1.7 Permits. To the extent assignable, all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Land and the Improvements (including, without limitation, any form of reservation for utility capacity that may be granted by any governmental subdivision; and

1.8 Tax Credits. To the extent a security interest can be granted under applicable law, all right, title, and interest of Trustor in and to any Low-Income Housing Tax Credit (as that term is used in Section 42 of the Internal Revenue Code of 1986, as amended) relating to the Property and the use thereof;

1.9 Other Rights. All timber, crops, and to the extent assignable, all letter of credit rights, investment property, environmental site assessments and soils tests, and arising from or by virtue of any transactions relating to the Land and the other Property.

ARTICLE 2

ASSIGNMENT OF LEASES AND RENTS

2. SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND CONSTRUCTION MORTGAGE.

2.1 Security Agreement. To the extent any of the property described in Article 1 is personal property, Trustor, as debtor, grants to Beneficiary, as secured party, a security interest therein together with a security interest in all other personal property of whatsoever nature which is owned by Trustor and is located on or used or to be used in connection with any of the Property described in Article 1, and any products or proceeds of any thereof, pursuant to the Uniform Commercial Code of the State of Texas (the "UCC"), on the terms and conditions contained herein. Beneficiary hereby assigns such security interest to Trustee, in trust, for the benefit of Beneficiary to be dealt with as a portion of the "Property" except as otherwise specified herein.

2.2 Assignment of Leases and Rents.

- (a) Assignment. Trustor hereby absolutely, irrevocably, and unconditionally grants, transfers, conveys, sells, sets over and assigns to Beneficiary all of Trustor's right, title and interest now existing and hereafter arising in and to the leases, subleases, concessions, licenses, franchises or other agreements, whether oral or written, now existing and hereafter arising which affect the Property, Trustor's interest therein and any improvements located thereon, together with any and all security deposits, guarantees of the lessees' obligations (including any and all security thereunder) and other security under any such leases, subleases, concessions, licenses, franchises or other agreements (all of the foregoing, and any and all extensions, modifications and renewals thereof, shall be collectively referred to herein as the "Leases"), and hereby gives to and confers upon Beneficiary the right to collect all the income, rents, issues, profits, royalties and proceeds from the Leases and any business conducted on the Property and any and all prepaid rent and security deposits thereunder (collectively, the "Rents"). This Deed of Trust is intended by Beneficiary and Trustor to create and shall be construed to create an absolute assignment to Beneficiary of all of Trustor's right, title and interest in and

to the Leases and shall not be deemed to create a security interest therein for the payment of any indebtedness or the performance of any obligations under the Loan Documents (as hereinafter defined). Trustor grants a security interest to Beneficiary in the Rents, in accordance with the Texas Assignment of Rents Act (codified as Chapter 64 of the Texas Property Code). Notwithstanding any other provision hereof or in any of the Loan Documents to the contrary, all provisions related to the assignment of rents in this Deed of Trust are subject to the terms, provisions, and conditions of the Texas Assignment of Rents Act ("TARA"), as codified in Tex. Prop. Code, Chapter 64, as the same may be amended, modified or supplemented from time to time. To the extent that specific terms and requirements of this Deed of Trust or any other Loan Document, including the Loan Agreement, conflict with the specific terms and requirements of TARA, (i) to the extent such terms and requirements of TARA may be superseded by an agreement between the parties, the specific terms and requirements of this Deed of Trust or the other Loan Documents hereby supersedes such specific terms and requirements of TARA; and (ii) to the extent that such terms and requirements of TARA cannot be superseded by an agreement between the parties, the specific terms and requirements of TARA shall control, and the parties further agree that all other terms and requirements of this Deed of Trust or the other Loan Documents shall not otherwise be impaired or superseded thereby and shall remain in full force and effect. This Deed of Trust is intended to be a Security Instrument for purposes of TARA and the indebtedness secured by this Deed of Trust shall be a secured obligation for purposes of TARA. Promptly upon request by Beneficiary, Trustor agrees to execute and deliver such further assignments as Beneficiary may from time to time require. Trustor and Beneficiary intend this assignment and grants of a security interest of Rents to be an assignment for security of the indebtedness secured by this Deed of Trust. Rents shall be deemed to be a part of the "Property". It is the intention of the Trustor that this Deed of Trust create and perfect a lien on Rents in favor of Beneficiary, which lien shall be effective as of the date of this Deed of Trust. Subject to the foregoing, and only to be effective when an Event of Default exists, Trustor irrevocably appoints Beneficiary its true and lawful attorney at the option of Beneficiary at any time to demand, receive and enforce payment, to give receipts, releases and satisfactions and to sue, either in the name of Trustor or in the name of Beneficiary, for all such Rents and apply the same to the indebtedness secured by this Deed of Trust.

- (b) Revocable License to Collect. Notwithstanding the foregoing assignment of Rents, so long as no Event of Default (as hereinafter defined) remains uncured, Trustor shall have a revocable license to collect all Rents, and to retain the same. If an Event of Default exists, Trustor's license to collect and retain Rents shall terminate automatically.

- (c) Collection and Application of Rents by Beneficiary. While any Event of Default remains uncured, (i) Beneficiary may at any time, without notice, in person, by agent or by court-appointed receiver, and without regard to the adequacy of any security for the obligations secured by this Deed of Trust, enter upon any portion of the Property and/or, with or without taking possession thereof, in its own name sue for or otherwise collect Rents (including past due amounts), and (ii) without demand by Beneficiary therefor, Trustor shall promptly deliver to Beneficiary all prepaid rents, deposits relating to Rents, and all other Rents then held by or thereafter collected by Trustor, whether prior to or during the continuance of any Event of Default. Any Rents collected by or delivered to Beneficiary may be applied by Beneficiary against the obligations secured by this Deed of Trust, less all expenses, including attorneys' fees and disbursements, in such order as Beneficiary shall determine in its sole and absolute discretion. No application of Rents against any obligation secured by this Deed of Trust or other action taken by Beneficiary under this Section 2.2 shall be deemed or construed to cure or waive any Event of Default, or to invalidate any other action taken in response to such Event of Default, or to make Beneficiary a mortgagee-in-possession of the Property.
- (d) Direction to Tenants. Trustor hereby irrevocably authorizes and directs the tenants under all Leases to pay all amounts owing to Trustor thereunder to Beneficiary following receipt of any written notice from Beneficiary that states that an Event of Default remains uncured and that all such amounts are to be paid to Beneficiary. Trustor further authorizes and directs all such tenants to pay all such amounts to Beneficiary without any right or obligation to inquire as to the validity of Beneficiary's notice and regardless of the fact that Trustor has notified any such tenants that Beneficiary's notice is invalid or has directed any such tenants not to pay such amounts to Beneficiary.

2.3 Construction Mortgage. This Deed of Trust shall constitute a "construction mortgage" under Section 9.334(h) and Section 2A.309 of the UCC.

2.4 Additional Provisions Regarding Assignment Of Rents. Section 2.2 will not be construed to require a *pro tanto* or other reduction of the Note (hereinafter defined) resulting from the assignment of Rents. If the provisions of Section 2.2 and the preceding sentence cause the assignment of Rents in Section 2.2 to be deemed to be an assignment for additional security only, Beneficiary will be entitled to all rights, benefits and remedies attendant to such collateral assignment. The assignment of Rents contained in Section 2.2 will terminate upon the release of this Deed of Trust.

ARTICLE 3

SECURED OBLIGATIONS

3. OBLIGATIONS SECURED. This Deed of Trust is given for the purpose of securing:

3.1 Performance and Payment. The performance of the obligations contained herein and the payment of (i) \$10,000,000 with interest thereon and all other amounts payable according to the terms of a promissory note of even date herewith made by Trustor, payable to Beneficiary or order, with a maturity date of January 31, 2036, and (ii) any and all extensions, renewals, modifications or replacements of (i) above, whether the same be in greater or lesser amounts (collectively, (i) and (ii) shall be referred to herein as the "Note"), which Note may provide for one or more of the following: (a) a variable rate of interest; (b) a balloon payment at maturity; or (c) deferral of a portion of accrued interest under certain circumstances with interest so deferred added to the unpaid principal balance of the Note and secured hereby. The loan evidenced by the Note and secured by this Deed of Trust shall be referred to as the "Loan". As more particularly set forth in the Loan Agreement (the "Loan Agreement") of even date herewith among Trustor, Beneficiary, and Bondholder Representative, the Loan evidenced by the Note will convert from a construction loan to a permanent loan upon the terms and subject to the conditions set forth in the Forward Bond Purchase Agreement, and this Deed of Trust will continue to secure any and all obligations described in this Article 3 following such conversion without any loss of the priority of the lien created hereby or other effect whatsoever.

3.2 Future Advances. The repayment of any and all sums advanced or expenditures made by Beneficiary subsequent to the execution of this Deed of Trust for the maintenance or preservation of the Property or advanced or expended by Beneficiary pursuant to any provision of this Deed of Trust subsequent to its execution, together with interest thereon.

ARTICLE 4

REPRESENTATIONS AND COVENANTS

4. WARRANTIES AND COVENANTS OF TRUSTOR. Trustor warrants, covenants, and agrees:

4.1 Warranties.

- (a) Trustor has full power and authority to grant the Property to Trustee and warrants the Property to be free and clear of all liens, charges, and other encumbrances except Permitted Encumbrances (as defined below). "Permitted Encumbrances" means the liens, easements, and encumbrances of title described on Exhibit B attached hereto, to the extent each is valid,

subsisting and affects title to the Property, and all other liens permitted by the Loan Agreement.

- (b) None of the Property is used principally or at all for agricultural or farming purposes.
- (c) The Property is free from damage and no matter has come to Trustor's attention (including, but not limited to, knowledge of any construction defects or nonconforming work) that would materially impair the value of the Property as security.
- (d) The Loan is primarily for commercial, industrial or business purposes and is not primarily for personal, family or household purposes.

4.2 Preservation of Lien. Trustor will preserve and protect the priority of this Deed of Trust as a first lien on the Property. If Trustor fails to do so, Beneficiary may take any and all steps necessary or appropriate to do so and all sums expended by Beneficiary in so doing shall be treated as part of the obligations secured by this Deed of Trust, shall be paid by Trustor upon demand by Beneficiary and shall bear interest at the Default Rate (hereinafter defined).

4.3 Construction. Trustor will (i) commence of the rehabilitation of the Improvements promptly following execution and recordation of this Deed of Trust, (ii) continue such construction in an expeditious manner and not cease or substantially cease productive construction work thereof without the prior written consent of Beneficiary (except as otherwise expressly permitted by the Construction Disbursement Agreement), (iii) complete the Improvements within the period of time specified in the Construction Disbursement Agreement to Beneficiary's (or the Bondholder Representative's, as the case may be) reasonable satisfaction substantially in accordance with the Plans and Specifications (as defined in the Construction Disbursement Agreement) previously furnished to and approved by Beneficiary (or the Bondholder Representative, as the case may be), and (iv) comply with all other terms and conditions of the Construction Disbursement Agreement.

4.4 Repair and Maintenance of Property. Trustor will keep the Property in good condition and repair, which duty shall include but is not limited to continual cleaning, painting, landscaping, repairing and refurbishing of the Property; will complete and not remove or demolish, alter, or make material additions to any building or other improvement which is part of the Property without the express written consent of Beneficiary; will underpin and support when necessary any such building or other improvement and protect and preserve the same; will complete or restore promptly and in good and workmanlike manner any such building or other improvement which may be damaged or destroyed and pay when due (or bond around or contest as provided in this Deed of Trust) all claims for labor performed and materials furnished therefor; will not commit, suffer or permit any act upon the Property in violation of law; and will do all other acts which from the character or use of the Property may be reasonably necessary

for the continued operation of the Property in a safe and legal manner, the specific enumerations herein not excluding the general.

4.5 Insurance.

- (a) Trustor will provide, maintain, and deliver to Beneficiary, as further security for the faithful performance of this Deed of Trust, all insurance as required by the Loan Agreement and Construction Disbursement Agreement. All policies of insurance on the Property, whether or not required by the terms of this Deed of Trust, shall name Beneficiary as first loss payee pursuant to a standard first-mortgage endorsement on Form 438BFU or on a loss-payee form substantially equivalent to the New York standard mortgage endorsement, with such deductibles as approved by Beneficiary but that are, in any event, not more than \$10,000. Trustor shall be responsible for any uninsured losses and any deductibles. All existing and future policies for all insurance required by this Deed of Trust and all other insurance obtained by Trustor with respect to the Property, whether or not required by Beneficiary (including, but not limited to, earthquake insurance), and the proceeds of all of the foregoing, are hereby assigned to Beneficiary (and shall be paid to Beneficiary for application as herein provided), but no such assignment shall be effective to invalidate or impair any insurance policy. In addition to the foregoing, the Beneficiary must be named as first loss payee pursuant to a standard first-mortgage endorsement in accordance with the terms set forth above with respect to the Property under the master condominium insurance policy maintained by the owner's association or other entity (the "Condominium Association") which acts for the Aldrich 51 Condominiums (the "Condominium").
- (b) Insurance Survey. During the last thirty (30) days of every third year computed from the date hereof, Trustor will have an insurance survey of the Property made. Trustor shall at these times obtain such additional coverages or make such increases in the amounts of existing coverage as may be requested by Beneficiary on the basis of such survey.
- (c) Damage and Destruction In the event of any damage to or loss or destruction of the Property, Trustor shall: (i) promptly notify Beneficiary of such event if the damage to or loss or destruction of the Property is of a value in excess of \$75,000; (ii) take such steps as shall be necessary to preserve any undamaged portion of the Property; and (iii) unless otherwise instructed by Beneficiary, as hereinafter provided, shall, regardless of whether the insurance proceeds, if any, shall be sufficient for the purpose, promptly commence and diligently pursue to completion the restoration, replacement and rebuilding (collectively, "Restoration") of the Property as nearly as possible to its value, condition and character immediately prior to such damage, loss or destruction and in accordance with the plans and

specifications approved, and with other provisions for the preservation of the security hereunder established, by Beneficiary, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, if an Event of Default (as defined below and hereafter used) is then continuing or if the sum of insurance proceeds and other amounts available to Trustor for the restoration are not sufficient to pay for the planned restoration, Beneficiary may, at its option, apply the insurance proceeds to the obligations secured by this Deed of Trust.

(d) Beneficiary's Rights: Application of Proceeds. In the event that any portion of the Property is so damaged, destroyed or lost, and any such damage, destruction or loss is covered in whole or in part, by insurance described in Section 4.5(a), whether or not such insurance is specifically required by the terms of this Deed of Trust, then the following provisions shall apply:

(i) If an Event of Default has occurred hereunder and is continuing that would not be cured by the timely Restoration of the damaged portion of the Property, (A) Beneficiary may, but shall not be obligated to, make proof of loss to any insurer if not made promptly by Trustor, and Beneficiary is hereby authorized and empowered by Trustor to settle, adjust or compromise any claims for damage, destruction or loss thereunder unless the proposed amount of proceeds from such claims exceeds the then outstanding amount of the indebtedness secured hereby, and (B) each insurance company concerned is hereby authorized and directed to make payment therefor directly to Beneficiary, to be applied, at Beneficiary's option, to the indebtedness secured hereby in such order as Beneficiary may determine, in its sole discretion or to be held by Beneficiary for future application to the obligations secured hereby. Unless otherwise required by law, any application to the indebtedness secured hereby by Beneficiary of such payments shall not, by itself, cure or waive any Event of Default hereunder or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice or waive any collateral encumbered hereby or otherwise securing the Note.

(ii) If no Event of Default hereunder has occurred and is continuing, and if the amount of proceeds from any claim for damage, destruction or loss is reasonably expected to be \$75,000.00 or less, Trustor shall be entitled to receive all such proceeds and shall apply such proceeds to the Restoration of that portion of the Property so damaged, destroyed or lost to as nearly the same condition, character and value as may have existed prior to such damage, destruction or loss, with such changes or alterations as may be required to conform to applicable law.

(iii) If such proceeds are reasonably expected to exceed \$75,000, and if an Event of Default has not occurred hereunder and is not continuing (other than an Event of Default that would be cured by the timely Restoration of the damaged portion of the Property), Beneficiary shall apply all such insurance proceeds to the Restoration of the damaged portion of the Property, and such Restoration shall be accomplished as provided in this Section 4.5(d) so long as such Restoration can, in the reasonable judgment of Beneficiary, be completed (A) no later than two (2) years prior to the maturity date of the Note, (B) within one (1) year after the date of the casualty, and (C) in such a manner so that the Property will have a value at least equal to its value prior to the casualty. Otherwise, Beneficiary may elect in its sole discretion to apply all such insurance proceeds to reduction of the indebtedness secured hereby.

- (e) Disbursement of Insurance Proceeds. Insurance proceeds held by Beneficiary (or the Bond Trustee, as the case may be) for Restoration shall be disbursed from time to time as the Restoration progresses by Beneficiary (or the Bond Trustee, as the case may be) (or at Beneficiary's election by a disbursing or escrow agent who shall be selected by Beneficiary and whose fees shall be paid by Trustor), upon delivery to Beneficiary and the Bondholder Representative of the following: (i) evidence reasonably satisfactory to Beneficiary of the estimated cost of Restoration; (ii) funds (or assurances reasonably satisfactory to Beneficiary that such funds are available) sufficient in addition to the proceeds of insurance to complete and fully pay for the Restoration; and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as Beneficiary may reasonably require and approve. No payment made prior to the final completion of Restoration shall exceed ninety percent of the value of the work performed from time to time, as such value shall be determined by Beneficiary in its reasonable judgment. Prior to commencement of the work, and from time to time thereafter, if so requested by Beneficiary (or the Bondholder Representative), Trustor shall deposit with Beneficiary (or the Bond Trustee, as the case may be) an amount of funds in excess of the insurance proceeds which, together with such proceeds, shall at all times be at least sufficient in the reasonable judgment of Beneficiary to pay the entire unpaid cost of the Restoration, free and clear of all liens or claims of lien. Funds so deposited by Trustor shall be disbursed prior to the disbursement of any insurance proceeds. Any surplus which remains out of insurance proceeds held by Beneficiary after payment of all costs of the Restoration shall be paid to Trustor. No interest shall be allowed to Trustor on account of any insurance proceeds or other funds held by Beneficiary (or the Bond Trustee, as the case may be), but Beneficiary

agrees that, at Trustor's request, Beneficiary will deposit any proceeds of insurance held by it for Restoration into a blocked non-interest bearing account with Beneficiary (or the Bond Trustee, as the case may be) over which Beneficiary (or the Bond Trustee and Bondholder Representative as assignee and designee) has sole possession, authority and control, in which Beneficiary has a perfected first-priority security interest to secure the indebtedness secured by this Deed of Trust, and otherwise on terms and conditions satisfactory to Beneficiary in its sole discretion. Notwithstanding the above, if an Event of Default occurs (other than an Event of Default that would be cured by the timely Restoration of the damaged portion of the Property) prior to full disbursement of the insurance proceeds and any other funds held by Beneficiary to be disbursed to Trustor any undisbursed portion of the insurance proceeds or other such funds may, at Beneficiary's (or the Bond Trustee and Bondholder Representative as assignee and designee) option, be applied against the indebtedness secured by this Deed of Trust, whether or not then due, in such order and manner as Beneficiary (or the Bond Trustee and Bondholder Representative as assignee and designee) shall select.

- (f) Effect on the Indebtedness. Any reduction in the indebtedness secured hereby resulting from the application to the indebtedness secured hereby of insurance proceeds pursuant to this Deed of Trust shall be deemed to take effect only on the date of receipt by Beneficiary of such proceeds and application thereof to the indebtedness secured hereby; provided that, if, prior to the receipt by Beneficiary of such proceeds, the Property shall have been sold in connection with a trustee's sale under, or foreclosure of this Deed of Trust, or shall have been transferred by deed in lieu of foreclosure of this Deed of Trust, notwithstanding any limitation on Trustor's liability contained herein or in the Note, Beneficiary shall have the right to receive the same to the extent of any deficiency following such sale or conveyance, together with reasonable attorneys' fees and disbursements incurred by Beneficiary in connection with the collection thereof.
- (g) Beneficiary may secure the insurance only in its own name and may insure only its interest in the Property, and in connection with Beneficiary securing any such insurance, without in any way limiting another term or provision of this Deed of Trust or of the Loan Agreement, the following notice is given and delivered pursuant to §307.052 of the Texas Finance Code:

NOTICE:

(A) TRUSTOR IS REQUIRED TO: (i) KEEP THE PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNT SET FORTH IN THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT; (ii) PURCHASE

THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (iii) NAME THE BENEFICIARY AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS;

(B) TRUSTOR MUST, IF REQUIRED BY BENEFICIARY, DELIVER TO BENEFICIARY A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF THE PREMIUMS; AND

(C) IF TRUSTOR FAILS TO MEET ANY REQUIREMENT LISTED IN CLAUSE (A) OR (B) ABOVE, BENEFICIARY MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF TRUSTOR AT TRUSTOR'S EXPENSE.

If there is any irreconcilable inconsistency between Section 5.5 or Article 6 of the Loan Agreement and Section 4.5 of this Deed of Trust, Section 5.5 or Article 6 of the Loan Agreement, as applicable, shall control.

4.6 Right of Inspection. Trustor shall permit Beneficiary or its agents or independent contractors (including, but not limited to, appraisers, environmental consultants and construction consultants), at all reasonable times and after reasonable notice, to enter upon and inspect the Property subject to and as provided for in the Loan Agreement (including without limitation, requirements to provide prior notice).

4.7 Preservation of Licenses, Etc. Trustor shall observe and comply with all requirements necessary to the continued existence and validity of all rights, licenses, permits, privileges, franchises and concessions relating to any existing or presently contemplated use of the Property, including but not limited to any zoning variances, special exceptions and nonconforming use permits.

4.8 Further Assurances. Trustor will, at its expense, from time to time execute and deliver any and all such instruments of further assurance and other instruments and do any and all such acts, or cause the same to be done, as Trustee or Beneficiary deems necessary or advisable to grant to Trustee the Property or to carry out more effectively the purposes of this Deed of Trust.

4.9 Legal Actions. Trustor will appear in and defend any action or proceeding before any court or administrative body purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee (or their assigns); and will pay all costs and expenses, including cost of evidence of title, title insurance premiums and any fees of attorneys, appraisers, environmental inspectors and others, incurred by Beneficiary or Trustee (or their assigns), in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee appear, and in any suit brought by Beneficiary or Trustee (or their assigns) to foreclose this Deed of Trust and in any trustee's sale under this Deed of Trust.

4.10 Taxes, Assessments and Other Liens. Except as expressly provided for herein or in the Loan Agreement, Trustor will pay prior to delinquency all taxes, assessments,

encumbrances, charges, and liens with interest, and all common charges, dues and assessments imposed, on the Property or any part thereof, which at any time appear to be or are alleged to be prior and superior hereto, including but not limited to any tax on or measured by rents of the Property, the Note, this Deed of Trust, or any obligation or part thereof secured hereby.

4.11 Expenses. Trustor will pay all costs, fees and expenses reasonably incurred by Beneficiary or Trustee (or their assigns) in connection with this Deed of Trust.

4.12 Repayment of Expenditures. Trustor will pay immediately and without demand all amounts secured by this Deed of Trust, other than principal of and interest on the Note, with interest from date of expenditure at the default rate of interest specified in the Note (the "Default Rate") and the repayment thereof shall be secured hereby.

4.13 Financial & Operating Information. Upon Beneficiary's request, Trustor will furnish (or cause to be furnished) to Beneficiary (and the Bondholder Representative, as applicable) all financial information as and when required by the Loan Agreement and Construction Disbursement Agreement.

4.14 (RESERVED).

4.15 Information for Participants. Trustor agrees to furnish such information and confirmation as may be required from time to time by Beneficiary on request of potential loan participants and agrees to make adjustments in this Deed of Trust, the Note, and the other Loan Documents to accommodate such participants' requirements, provided that such requirements do not vary the economic terms of the Loan.

4.16 Trustor Existence.

- (a) If Trustor is a corporation, Beneficiary is making the Loan in reliance on Trustor's continued existence, ownership and control in its present corporate form. Trustor will not alter such corporate structure, ownership or control without the prior written consent of Beneficiary, and will do all things necessary to preserve and maintain said corporate existence and to insure its continuous right to carry on its business, including but not limited to, filing within the prescribed time all corporate tax returns and reports, and paying when due all such taxes.
- (b) If Trustor is a partnership, Beneficiary is making the Loan in reliance on the continued existence of Trustor partnership and upon the business and financial reputation of Trustor partnership as a business entity and each of the general partners thereof. Therefore, the general partners of Trustor hereby agree that they will take no action to dissolve Trustor partnership and will do all things within their power to prevent the dissolution and winding up of Trustor partnership, notwithstanding the death, withdrawal or expulsion of any general partner. Notwithstanding, foregoing, any change in the structure of Trustor or the ownership of the Property to

which Beneficiary's consent has been given or is otherwise a permitted transfer shall not be in violation of this Section.

- (c) If Trustor is a limited liability company, Beneficiary is making the Loan in reliance on Trustor's continued existence, ownership and control in its present limited liability company form. Except for Permitted Transfers (as defined in the Construction Disbursement Agreement), Trustor will not alter such limited liability company structure, ownership or control without the prior written consent of Beneficiary and will do all things necessary to preserve and maintain said limited liability company existence and to insure its continuous right to carry on its business. The managing members of the Trustor agree that, without the prior written consent of Beneficiary, none of the managing members of Trustor will withdraw or be removed as a managing member of Trustor, except if substituted by an entity owned and controlled by an affiliate of investor member pursuant to the Operating Agreement of Trustor. The withdrawal or expulsion of any managing member from Trustor shall not in any way affect the liability of the withdrawing or expelled managing member hereunder or on the Note. Notwithstanding the foregoing, any change in the structure of Trustor or the ownership of the Property to which Beneficiary's consent has been given or is otherwise a Permitted Transfer shall not be a violation of this Section.

4.17 Tax and Insurance Reserves.

- (a) In addition to the payments required by the Note, Trustor agrees to pay Beneficiary (but prior to the Conversion Date as defined in the Construction Disbursement Agreement, only at Beneficiary's request and on and after the Conversion Date, without the necessity of any request) such sums as Beneficiary may from time to time estimate will be required to pay, at least thirty (30) days before delinquency, the next due taxes, assessments, insurance premiums, and similar charges affecting the Property, less all sums already paid therefor divided by the number of months to elapse before one (1) month prior to the date when such taxes, assessments and premiums will become delinquent, such sums to be held by Beneficiary without interest or other income to the Trustor to pay such taxes, assessments and premiums. Should this estimate as to taxes, assessments and premiums prove insufficient, the Trustor upon demand agrees to pay Beneficiary such additional sums as may be required to pay them before delinquent.
- (b) If the total of the above-described payments in any one year shall exceed the amounts actually paid by Beneficiary for taxes, assessments and premiums, such excess shall be credited by Beneficiary on subsequent payments under this Section. If there shall be an Event of Default hereunder for which Beneficiary elects to realize upon this Deed of Trust,

then at any time during the existence of the Event of Default and prior to the foreclosure sale, Beneficiary may apply any balance of funds it may hold pursuant to this Section to any amount secured by this Deed of Trust and in such order as Beneficiary may elect. If Beneficiary does not so apply such funds at or prior to the trustee's sale or sheriff's sale, the purchaser at such sale shall be entitled to all such funds. If Beneficiary acquires the Property in lieu of realizing on this Deed of Trust, the balance of funds it holds shall become the property of Beneficiary.

- (c) Any transfer in fee of all or a part of the Property shall automatically transfer to the grantee all or a proportionate part of Trustor's rights and interest in the fund accumulated hereunder.
- (d) Notwithstanding anything to the contrary set forth in this Deed of Trust and/or any of the other Loan Documents, Trustor may, in lieu of paying such taxes and assessments as they become due and payable, contest in good faith the validity thereof. Pending resolution of such contest, Trustor shall not be deemed in default hereunder or under any of the other Loan Documents because of such nonpayment if, prior to delinquency of the asserted tax or assessment, Trustor furnishes Beneficiary an indemnity bond secured by a deposit in cash or other security acceptable to Beneficiary, or with a surety acceptable to Beneficiary, in the amount of the tax or assessment being contested by Trustor plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, conditioned that such tax or assessment, with interest, cost and penalties, be paid as herein stipulated, and if Trustor promptly pays any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, on or before the date such judgment becomes final; provided that in any event the tax, assessment, penalties, interest and costs shall be paid prior to the date on which any writ or order is issued under which the Property may be sold in satisfaction thereof..

4.18 Leases. Trustor covenants and agrees, at Trustor's sole cost and expense:

- (a) Trustor shall, in all respects, promptly and faithfully keep, perform and comply with all of the terms, provisions, covenants, conditions and agreements in each of the Leases pursuant to which any tenant of any part of the Property is occupying the Property to be kept, performed and complied with by the lessor therein, and will require, demand and strictly enforce, by all available means, the prompt and faithful performance of and compliance with all of the terms, provisions, covenants, conditions and agreements in the Leases to be performed and complied with by the lessees therein, and enforce, to the extent consistent with reasonable and prudent management of the Property, the available remedies for

nonperformance by the tenants of the obligations of the tenants contained in the Leases.

- (b) Trustor shall exercise Trustor's best efforts to keep all portions of the Property that are currently subject to Leases leased at all times at rentals as required to maintain all low income housing tax credits ("LIHTCs"), if any, for the Property.
- (c) Trustor shall deliver to Beneficiary a fully executed, counterpart original of each and every Lease if requested to do so.
- (d) Trustor shall execute and record such additional assignments of any Lease or specific subordinations of any Lease to the Deed of Trust, in form and substance acceptable to Beneficiary, as Beneficiary may reasonably request.
- (e) Trustor shall promptly deposit and maintain all security deposits or other deposits received by Trustor from tenants in a segregated trust account in a federally insured bank or savings and loan association, and shall notify and direct in writing each and every present or future tenant or occupant of the Property or any part thereof that any security deposit or other deposit heretofore delivered to Trustor has been retained by Trustor or assigned and delivered to Beneficiary as the case may be.
- (f) Trustor shall not receive or collect any rents from any present or future tenant of the Property or any part thereof in advance in excess of one (1) month's rent of such tenant or collect a security deposit in excess of two (2) months' rent.
- (g) Trustor shall not, except with the prior written consent of Beneficiary: (i) enter into any Lease of a residential unit in the Property after the date of this Deed of Trust except in the form of Lease approved in writing by Beneficiary and with tenants meeting the income requirements required to maintain all the LIHTCs; (ii) execute any other assignment relating to any of the Leases; (iii) discount any rent or other sums due under the Leases or collect the same in advance except as set forth above; (iv) terminate, modify or amend any of the terms of the Leases or in any manner release or discharge any tenant from any obligations thereunder except as reasonably required for prudent management of the Property or as may be necessary to maintain all the LIHTCs; (v) consent to any assignment or subletting by any tenant except to the extent consistent with reasonable and prudent management of the Property; or (vi) subordinate or agree to subordinate any of the Leases to any other deed of trust or encumbrance.

4.19 Affordable Housing Restrictions. Trustor shall perform and satisfy, after applicable notice and cure rights, each and every covenant, agreement, term and

condition of any use restriction, regulatory agreement, grant, subsidy, application, reservation, allocation or other restriction relating to the Property or affecting the use or occupancy of the Property, including without limitation, the terms and conditions of any allocation or reservation of LIHTCs by the Texas Department of Housing and Community Affairs ("TDHCA") to Trustor or the Property.

4.20 Credit Enhancement. Trustor acknowledges that Beneficiary may have considered other collateral or assets of Trustor or its constituents in determining the creditworthiness of Trustor or its constituents, or the viability of the Property as an affordable housing project. Those other collateral or assets may include, without limitation, letters of credit issued by a financial institution reasonably acceptable to Beneficiary, rental guaranties or payment contracts issued by the federal Department of Housing and Urban Development, or a local municipality or governmental entity, or LIHTCs reserved or allocated by TDHCA for the benefit of the Property. Upon Beneficiary's request, Trustor shall promptly furnish to Beneficiary, in such form as it may request, financial or other information, including reporting documents or monitoring reports, that Trustor may have or that Trustor may be able to obtain in connection with these other collateral or assets.

ARTICLE 5

DEFAULT

5. DEFAULT.

5.1 Definition. Any Event of Default under and as defined in the Loan Agreement shall constitute an "Event of Default" as that term is used herein. Without limiting the foregoing, an Event of Default shall have occurred if title to all or any material part of the Property (other than obsolete or worn personal property or other items of personal property replaced by adequate substitutes of equal or greater value than the replaced items) shall become vested in any party other than Trustor, whether by operation of law or otherwise, except as otherwise expressly permitted under the terms of the Loan Documents.

5.2 Beneficiary's and Trustee's Right to Perform.

- (a) When an Event of Default exists, Beneficiary or Trustee, but without the obligation so to do and without releasing Trustor from any obligations hereunder, may: make any payments or do any acts required of Trustor hereunder in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien in accordance with the

following paragraph; and in exercising any such powers, pay necessary expenses (to include costs of documentary evidence, abstracts and title reports), employ counsel and pay a reasonable fee therefor. All sums so expended shall be payable on demand by Trustor, be secured hereby (except as otherwise provided in this Deed of Trust) and bear interest at the Default Rate of interest specified in the Note from the date advanced or expended until repaid.

- (b) Beneficiary or Trustee in making any payment herein and hereby authorized, in the place and stead of the Trustor, in the case of a payment of taxes, assessments, water rates, sewer rentals and other governmental or municipal charges, fines, impositions or liens asserted against the Property, may make such payment in reliance on any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; in the case of any apparent or threatened adverse claim of title, lien, statement of lien, encumbrance, deed of trust, claim or charge Beneficiary or Trustee, as the case may be, shall be the sole judge of the legality or validity of same; and in the case of a payment for any other purpose herein and hereby authorized, but not enumerated in this paragraph, such payment may be made whenever, in the sole judgment and discretion of Trustee or Beneficiary, as the case may be, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this Deed of Trust, provided further, that in connection with any such advance, Beneficiary at its option may and is hereby authorized to obtain a continuation report of title prepared by a title insurance company, the cost and expenses of which shall be repayable by the Trustor without demand and shall be secured hereby.
- (c) Notwithstanding anything to the contrary contained herein, the Beneficiary agrees to accept performance on the part of Hunt Capital Partners Tax Credit Fund 27, LP (or its successors and assigns as the investor limited partner of Trustor) (collectively referred to herein as the "Investor Limited Partner"), or any of its affiliates as though the same had been performed by the Borrower under any of the Loan Documents. The Beneficiary will allow the Investor Limited Partner and its affiliates ten (10) days after giving the Investor Limited Partner notice to cure a monetary default under the Loan Documents (other than the payment due at maturity) and except as to the Borrower's filing of a voluntary bankruptcy petition, up to thirty (30) days after giving the Investor Limited Partner notice to cure of any non-monetary default under the Loan Documents, provided, however, that in the event of a non-monetary default that is not susceptible to being cured within such thirty (30) day period, the Beneficiary will allow the party offering cure an additional period of up to sixty (60) days to cure such default, provided that the cure

of such default has commenced and the person offering the cure is continuously proceeding to cure such default through the end of the sixty (60) day period. If the Investor Limited Partner, or any of its affiliates, makes any such payment or otherwise offers cure of a default, the Beneficiary will accept or reject such action as curing such default on the same basis as if payment or cure were made directly by the Trustor.

5.3 Exercise of Specific Remedies. If an Event of Default shall occur and is continuing, Beneficiary (or the Bond Trustee or Bondholder Representative, as the case may be) may exercise any one or more of the following remedies, without notice:

- (a) Acceleration. Beneficiary may declare the indebtedness secured hereby immediately due and payable, without notice, whereupon the same shall become immediately due and payable. Trustor hereby waives notice of intent to accelerate and notice of acceleration.
- (b) Enforcement of Assignment of Rents and Leases. Prior or subsequent to taking possession of any portion of the Property or taking any action with respect to such possession, Beneficiary may:
 - (i) collect and/or sue for the Rents in Beneficiary's own name, give receipts and releases therefor, and after deducting all expenses of collection, including attorneys' fees and expenses, apply the net proceeds thereof to any indebtedness secured hereby as Beneficiary may elect;
 - (ii) make, modify, enforce, cancel, terminate or accept surrender of any Leases, evict tenants, adjust the Rents, maintain, decorate, refurbish, repair, clean, and make space ready for renting, and otherwise do anything Beneficiary reasonably deems advisable in connection with the Property;
 - (iii) apply the Rents so collected to the operation and management of the Property, including the payment of management, brokerage and attorneys' fees and expenses, and/or to any indebtedness secured hereby; and
 - (iv) require Trustor to transfer all security deposits and records thereof to Beneficiary together with all original counterparts of the Leases.
- (c) Foreclosure. Beneficiary, with or without having first taken possession of the Property, may require the Trustee to sell all or part of the Property, at public auction, to the highest bidder, for cash, at the door of the county courthouse of the county in Texas in which such Property or any part thereof is situated or at the area of the county courthouse designated by the Commissioners Court of said county, or if the Property is located in more than one county such sale may be made at the courthouse in any county in

which the Property is situated. The sale shall take place at such area of the courthouse as shall be properly designated from time to time by the Commissioners Court (or, if not so designated by the Commissioners Court, at such other area in the courthouse as may be provided in the notice of sale hereinafter described) of the specified county, between the hours of 10:00 o'clock a.m. and 4:00 o'clock p.m. (the commencement of such sale to occur within three hours following the time designated in the hereinafter described notice of sale as the earliest time at which such sale shall occur, if required by applicable law) on the first Tuesday of any month, after giving notice of the time, place and terms of said sale (including the earliest time at which such sale shall occur) and of the property to be sold, in the manner hereinafter described. Notice of a sale of all or part of the Property by the Trustee shall be given by posting written notice thereof at the courthouse door (or other area in the courthouse as may be designated for such public notices) of the county in which the sale is to be made, and by filing a copy of the notice in the office of the County Clerk of the county in which the sale is to be made at least twenty-one (21) days preceding the date of the sale, and if the property to be sold is in more than one county, a notice shall be posted at the courthouse door (or other area in the courthouse as may be designated for such public notices) and filed with the County Clerk of each county in which the property to be sold is situated. In addition, Beneficiary shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by certified mail on Trustor and each debtor obligated to pay the debt secured hereby according to the records of Beneficiary. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such debtor at the most recent address as shown by the records of Beneficiary, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. Any notice that is required or permitted to be given to Trustor may be addressed to Trustor at Trustor's address as stated above. Any notice that is to be given by certified mail to any other debtor may, if no address for such other debtor is shown by the records of Beneficiary, be addressed to such other debtor at the address of Trustor, as is shown by the records of Beneficiary. Notwithstanding the foregoing provisions of this paragraph, notice of such sale given in accordance with the requirements of the applicable laws of the State of Texas in effect at the time of such sale shall constitute sufficient notice of such sale. Trustee may sell all or any portion of the Property, together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property good and sufficient deeds of conveyance of fee simple title with covenants of general warranty made on behalf of Trustor. In no event shall Trustee be required to exhibit, present or display at any such sale any of the personalty described herein to be sold at such sale. On the direction

of the Beneficiary, Trustee, or his successor or substitute, is hereby authorized and empowered to appoint any one or more persons as his attorney(s)-in-fact to act as Trustee under him and in his name, place and stead, such appointment to be evidenced by a written instrument executed by Trustee, or his successor or substitute, to perform any one or more act or acts necessary or incidental to any sale under the power of sale hereunder, including, without limitation, the posting and filing of any notices, the conduct of the sale and the execution and delivery of any instruments conveying the Property as a result of the sale, but in the name and on behalf of Trustee, or his successor or substitute; and all acts done or performed by said attorney(s)-in-fact shall be valid, lawful and binding as if done or performed by Trustee, or his successor or substitute. Trustee making such sale shall receive the proceeds thereof and shall apply the same as follows: (i) first, he shall pay the reasonable expenses of Trustee and a reasonable Trustee's fee or commission; (ii) second, he shall pay, so far as may be possible, the indebtedness secured hereby, discharging first that portion of the indebtedness secured hereby arising under the covenants or agreements herein contained and not evidenced by the Note; (iii) third, he shall pay the residue, if any, to the persons legally entitled thereto. Payment of the purchase price to Trustee shall satisfy the obligation of the purchaser at such sale therefor, and such purchaser shall not be responsible for the application thereof. The sale or sales by Trustee of less than the whole of the Property shall not exhaust the power of sale herein granted, and Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Property shall be less than the aggregate of the indebtedness secured hereby and the expenses thereof, this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale or sales had been made; provided, however, that Trustor shall never have any right to require the sale or sales of less than the whole of the Property, but Beneficiary shall have the right, at its sole election, to request Trustee to sell less than the whole of the Property. If default is made hereunder, the holder of the sum of the indebtedness secured hereby, or any part thereof on which the payment is delinquent shall have the option to proceed with foreclosure in satisfaction of such item either through judicial proceedings or by directing Trustee to proceed as if under a full foreclosure, conducting the sale as herein provided without declaring the entire indebtedness secured hereby due, and if sale is made because of default of an installment, or a part of an installment, such sale may be made subject to the unmaturred part of the indebtedness secured hereby; and it is agreed that such sale, if so made, shall not in any manner affect the unmaturred part of the indebtedness secured hereby, but as to such unmaturred part of the indebtedness secured hereby, this Deed of Trust shall remain in full force and effect as though no sale had been made under the provisions of

this paragraph. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Indebtedness. At any such sale (1) Trustor hereby agrees, in their own behalf and in behalf of their heirs, executors, administrators, successors, personal representatives and assigns, that any and all recitals made in any deed of conveyance given by Trustee with respect to the identity of Beneficiary, the occurrence or existence of any default, the acceleration of the maturity of any of the indebtedness secured hereby, the request to sell, the notice of sale, the giving of notice to all debtors legally entitled thereto, the time, place, terms, and manner of sale, and receipt, distribution and application of the money realized therefrom, or the due and proper appointment of a substitute Trustee, and, without being limited by the foregoing, with respect to any other act or thing having been duly done by Beneficiary or by Trustee hereunder, shall be taken by all courts of law and equity as prima facie evidence that the statements or recitals state facts and are without further question to be so accepted, and Trustor hereby ratifies and confirms every act that Trustee or any substitute Trustee hereunder may lawfully do in the premises by virtue hereof, and (2) the purchaser may disaffirm any easement granted, or rental, lease or other contract made, in violation of any provision of this Deed of Trust, and may take immediate possession of the Property free from, and despite the terms of, such grant of easement and rental or lease contract. Beneficiary may bid and become the purchaser of all or any part of the Property at any trustee's or foreclosure sale hereunder, and the amount of Beneficiary's successful bid may be credited on the indebtedness secured hereby. Notwithstanding the foregoing or anything else herein to the contrary, a purchaser at foreclosure (or an assignee of Beneficiary of this Deed of Trust) must not be a party which (i) has been convicted of a felony involving moral turpitude, fraud, or wrongdoing in connection with any business activities, (ii) has been restricted, disqualified, debarred, or banned, directly or indirectly, from doing business with HUD or any other state or federal agency, or prevented from owning, operating, managing, or otherwise participating in any state or federal program, (iii) has been debarred by any agency of the U.S. government or by any state agency or (iv) is under investigation by any branch or entity of federal or state government or is prohibited from doing business with for any reason or is not approved by the City of Austin (any sale in violation of the foregoing shall be void to the extent permitted under applicable law) .

- (d) Lawsuits. Beneficiary may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Property under the judgment or decree of any court or courts of competent jurisdiction.

- (e) Entry on Property. If an Event of Default exists hereunder, Beneficiary may enter into and upon and take possession of all or any part of the Property, and may exclude Trustor, and all persons claiming under Trustor, and their agents or servants, wholly or partly therefrom; and, holding the same, Beneficiary may use, administer, manage, operate, and control the Property and may exercise all rights and powers of Trustor in the name, place and stead of Trustor, or otherwise, as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Trustor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Beneficiary or its representatives.
- (f) Trustee or Receiver. Beneficiary may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Trustor or regard to the adequacy of the Property for the repayment of the indebtedness secured hereby, for appointment of a receiver of the Property, and Trustor does hereby irrevocably consent to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Property upon such terms as may be approved by the court, and shall apply the Rents in payment of the indebtedness secured hereby.
- (g) Additional Remedies.
 - (i) Have a receiver appointed as a matter of right on an ex parte basis without notice to Trustor and without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby and, without the necessity of posting any bond or other security, such receiver shall take possession and control of the Property and shall collect and receive all of the rents, issues and profits thereof.
 - (ii) Foreclose this Deed of Trust pursuant to a judicial foreclosure proceeding or otherwise realize upon the Property.
 - (iii) Cause Trustee to exercise its power of sale.
 - (iv) Sue on the Note as permitted under applicable law.

provided, however, that in no event will any action be taken by or on behalf of Beneficiary which violates Section 42 (h)(6)(E)(ii) of the U.S. Internal Revenue Code of 1986, as amended, regarding prohibitions against evicting, terminating tenancy or increasing rent of tenants for a period of three (3) years after acquisition of a building by foreclosure or deed-in-lieu of foreclosure, if applicable.

5.4 Tenancy at Will. In the event of a trustee's sale hereunder and if at the time of such sale Trustor or any other party occupies the portion of the Property so sold or any part thereof, such occupant shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Property so occupied, such rental to be due and payable daily to the purchaser. An action of forcible detainer shall lie if the tenant holds over after a demand in writing for possession of such Property.

5.5 Beneficiary's Right to Perform. Upon Trustor's failure to make a payment or perform an act required by the Loan Documents and all applicable notice and cure periods have expired, then at any time such failure continues, and without notice to or demand upon Trustor and without waiving or releasing any other right, remedy or recourse, Beneficiary may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Trustor, and shall have the right to enter upon the Property for such purpose and to take all such action as it may deem necessary or appropriate.

5.6 Reimbursement of Expenditure. If Beneficiary shall expend any money chargeable to Trustor or subject to reimbursement by Trustor under the terms of the Loan Documents, Trustor shall repay the same to Beneficiary immediately at the place where the Note is payable, together with interest thereon at the Default Rate provided for in the Note.

5.7 Other Rights. Beneficiary may exercise any and all other rights, remedies and recourses granted under the Loan Documents now or hereafter existing in equity or at law for the protection and preservation of the Property.

5.8 Rights and Remedies of Sureties. Trustor waives any right or remedy which Trustor may have or be able to assert pursuant to Chapter 43 of the Texas Civil Practice and Remedies Code and Section 3.605 of the UCC pertaining to the rights and remedies of sureties.

5.9 No Waiver. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to do so.

5.10 Remedies Cumulative. The rights and remedies accorded by this Deed of Trust shall be in addition to, and not in substitution of, any rights or remedies available under now existing or hereafter arising applicable law. All rights and remedies provided for in this Deed of Trust or afforded by law or equity are distinct and cumulative and may be exercised concurrently, independently or successively. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver of any default shall not constitute a waiver of any subsequent or other default. Beneficiary shall be subrogated to the claims and liens of those whose claims or liens are discharged or paid with the Loan proceeds.

ARTICLE 6

CONDEMNATION

6. CONDEMNATION. Any award of damages, whether paid as a result of judgment or prior settlement, in connection with any condemnation or other taking of any portion of the Property, for public or private use, or for injury to any portion of the Property (a "Condemnation") is hereby assigned and shall be paid to Beneficiary which may apply such moneys received by it in the same manner and with the same effect as provided above for disposition of proceeds of hazard insurance, provided that if the taking results in a loss of the Property to an extent which, in the reasonable opinion of Beneficiary, renders or will render the Property not economically viable or which substantially impairs Beneficiary's security or lessens to any material extent the value, marketability or intended use of the Property, Beneficiary may apply the Condemnation proceeds to reduce the unpaid indebtedness secured hereby in such order as Beneficiary may determine, and without any adjustment in the amount of installments due under the Note. If so applied, any proceeds in excess of the unpaid balance of the Note and other sums due to Beneficiary shall be paid to Trustor or Trustor's assignee. Beneficiary shall in no case be obligated to see to the proper application of any amount paid over to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. If the Property or any part or appurtenance thereof or right or interest therein is taken or threatened to be taken by reason of any public or private improvement, Condemnation proceeding (including change of grade), or in any other manner, Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards or other relief therefor, and Trustor agrees to pay Beneficiary's costs and reasonable attorneys' fees incurred in connection therewith. No Condemnation award at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such award with its general assets and shall not be liable for the payment of any interest thereon.

ARTICLE 7

TRUSTEE

7. TRUSTEE.

7.1 General Powers and Duties of Trustee. At any time or from time to time, without liability therefor and without notice and without affecting the liability of any person for the payment of the indebtedness secured hereby, upon written request of Beneficiary (which shall only be provided when directed to by the then holder of the Bonds), payment of its own fees and presentation of this Deed of Trust and the Note for endorsement (in case of full reconveyance or release, for cancellation or retention), Trustee may (i) consent to the making of any map or plat of the Property; (ii) join in granting any easement or creating any restriction thereon; (iii) join in any subordination or other

agreement affecting this Deed of Trust or the lien or charge thereof; or (iv) reconvey, without warranty, all or any part of the Property.

7.2 Reconveyance or Release. Upon written request of Beneficiary (which shall only be provided when directed to by the then holder of the Bonds) stating that all sums secured hereby have been paid, and upon payment of its fees, Trustee shall reconvey or release, without warranty, the Property then held hereunder. The recitals in any reconveyance or release executed under this Deed of Trust of any matters of fact shall be conclusive proof of the truthfulness thereof.

7.3 Reassignment of Security Interest. At the request of Beneficiary (which shall only be provided when directed to by the then holder of the Bonds), Trustee shall reassign, terminate or release to Beneficiary the security interest created hereby and after such reassignment, termination or release, Beneficiary shall have the right, upon the occurrence or continuance of any Event of Default, to realize upon the personal property subject to this Deed of Trust, independent of any action of Trustee, pursuant to the UCC.

7.4 Acceptance of Trust. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto except Beneficiary of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

7.5 Reliance. Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Trustor under this Deed of Trust, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder, provided however, Beneficiary shall not be required to present any such affidavit to Trustee.

7.6 Replacement of Trustee.

- (a) At the express direction of the then holder of the Bonds (and at no other time), Beneficiary may, from time to time, with or without cause, appoint another trustee in place and stead of Trustee herein named, and thereupon Trustee herein named shall be discharged and the trustee so appointed shall be substituted as Trustee hereunder, with the same effect as if originally named Trustee herein.
- (b) Trustee may resign by giving of notice of such resignation in writing to Beneficiary, Bond Trustee, or the then holder of the Bonds. If Trustee will die, resign or become disqualified from acting under this Deed of Trust or will fail or refuse to act in accordance with this Deed of Trust when requested by Beneficiary, Bond Trustee, or the then holder of the Bonds, or if for any reason and without cause Beneficiary, Bond Trustee, or the then holder of the Bonds will prefer to appoint a substitute trustee to act instead of the original Trustee named in this Deed of Trust or any prior

successor or substitute trustee, Beneficiary, Bond Trustee, or the then holder of the Bonds will have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who will succeed to all the estate, rights, powers and duties of the original Trustee named in this Deed of Trust. Such appointment may be executed by an authorized officer, agent or attorney-in-fact of Beneficiary, Bond Trustee, or the then holder of the Bonds (whether acting pursuant to a power of attorney or otherwise), and such appointment will be conclusively presumed to be executed with authority and will be valid and sufficient without proof of any action by Beneficiary, Bond Trustee, or the then holder of the Bonds.

- (c) Any successor Trustee appointed pursuant to this Section will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of the predecessor Trustee with like effect as if originally named as Trustee in this Deed of Trust; but, nevertheless, upon the written request of Beneficiary, Bond Trustee, or the then holder of the Bonds or such successor Trustee, the Trustee ceasing to act will execute and deliver an Deed of Trust transferring to such successor Trustee, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and will duly assign, transfer and deliver any of the property and monies held by the Trustee ceasing to act to the successor Trustee.

7.7 INDEMNIFICATION OF TRUSTEE. EXCEPT FOR NEGLIGENCE OR WILLFUL MISCONDUCT, TRUSTEE SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION OR ERROR OF JUDGMENT. TRUSTEE MAY RELY ON ANY DOCUMENT BELIEVED BY HIM IN GOOD FAITH TO BE GENUINE. ALL MONEY RECEIVED BY TRUSTEE SHALL, UNTIL USED OR APPLIED AS HEREIN PROVIDED, BE HELD IN TRUST, BUT NEED NOT BE SEGREGATED (EXCEPT TO THE EXTENT REQUIRED BY LAW), AND TRUSTEE SHALL NOT BE LIABLE FOR INTEREST THEREON. TRUSTOR HEREBY INDEMNIFIES TRUSTEE AGAINST ALL LIABILITY AND EXPENSES THAT HE MAY INCUR IN THE PERFORMANCE OF HIS DUTIES HEREUNDER.

ARTICLE 8

NOTICES

8. NOTICES.

8.1 Trustee. Any notice or demand upon Trustee may be given or made at its address set forth above.

8.2 Trustor and Beneficiary. Any notice to or demand upon Trustor (including any notice of default or notice of sale) or notice to or demand upon Beneficiary shall be deemed to have been sufficiently made for all purposes when sent, addressed to the recipient at its address set forth above or to such other address as the recipient may have directed by notice in accordance herewith, via (i) three (3) business days after sent United States first class certified mail, return receipt requested, (ii) upon delivery or refusal or delivery if sent via personal messenger, (iii) one (1) business day after sent via nationally recognized overnight delivery service, or (iv) upon the sender's receipt of evidence of delivery if sent via facsimile, with a hard copy to follow by United States first class mail:

To the Beneficiary:

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Manager of Multifamily Bonds

With a copy to:

Bracewell, LLP
111 Congress Avenue, Suite 2300
Austin, Texas 78701
Attention: Elizabeth Bowes, Esq.

To the Trustor:

TCD MCM, LP
c/o Triton Community Development LLC
14131 Yorba Street, Suite 104
Tustin, California 92780
Attention: William E. Rice, Managing Member

With copies to:

Hobson Bernardino & Davis LLP
Citigroup Center
444 South Flower Street, Suite 3100
Los Angeles, California 90071
Attention: Jason Hobson, Esq.

Shackelford, Bowen, McKinley & Norton, LLP
9201 N. Central Expressway, 4th Floor
Dallas, Texas 75231
Attention: John Shackelford, Esq.

Hunt Capital Partners Tax Credit Fund 27, LP
c/o Hunt Capital Partners, LLC
15190 Ventura Boulevard, Suite 100
Encino, California 91436
Attention: Jeffrey N. Weiss

Pillsbury Winthrop Shaw Pittman LLP
1200 South Street, NW
Washington, DC 20036
Attention: Craig A. de Ridder

To the Bond Trustee:

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Dayna Smith

To Bondholder Representative:

JPMorgan Chase Bank, N.A.
Community Development Banking
300 South Grand Avenue, 4th Floor
Los Angeles, California 90071-3109
Attention: Raymond Junior, Executive Director

With a copy to:

JPMorgan Chase Bank, N.A.
Legal Department
237 Park Avenue, 12th Floor
Mail Code NY1-R065
New York, New York 10017
Attention: Michael R. Zients, Executive Director and
Assistant General Counsel

To Permanent Lender:

Cedar Rapids Bank and Trust Company
501 First Avenue, NE, Suite 100
Cedar Rapids, Iowa 52401
Attention: Tim White

With a copy to:

Winthrop & Winestein, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, Minnesota 55402-4629
Attention: Holly A. Stocker, Esq.

8.3 Waiver of Notice. The giving of notice may be waived in writing by the person or persons entitled to receive such notice, either before or after the time established for the giving of such notice.

8.4 Assignment of Beneficiary's Rights. Under the terms of the Indenture, the rights entered under the terms, provisions, and remedies of Beneficiary under the Deed of Trust have been assigned to the Bond Trustee (and the Bond Trustee in connection therewith, shall only act at the direction of the Bondholder Representative, as provided in the Indenture.

ARTICLE 9

MISCELLANEOUS

9. MISCELLANEOUS

9.1 Modifications. Upon written request of any party then liable for any sum secured hereby, Beneficiary reserves the right to extend the term, or otherwise modify the terms, hereof or of the Note as Beneficiary and such person may from time to time deem appropriate and any such change shall not operate to release, in any manner, the liability of the original Trustor or Trustor's successors in interest.

9.2 Successors and Assigns. All provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

9.3 Governing Law; Severability. This Deed of Trust shall be governed by the law of the State of Texas (exclusive of its choice and conflict of law principles). In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, the conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision and to this end the provisions of this Deed of Trust and the Note are declared to be severable.

9.4 Trustor's Right To Possession. Trustor may be and remain in possession of the Property for so long as it is not in default hereunder or under the terms of the Note and Trustor may, while it is entitled to possession of the Property, use the same.

9.5 Maximum Interest. Trustor and Beneficiary intend to conform strictly to applicable usury laws. Therefore, the total amount of interest (as defined under applicable law) contracted for, charged or collected under the Note or this Deed of Trust will never exceed the highest amount permitted by applicable law. If Beneficiary contracts for, charges or receives any excess interest, it will be deemed a mistake. Any unlawful contract or charge will be automatically reformed to conform to applicable law, and if Beneficiary has received excess interest, Beneficiary will either refund the excess to Trustor or credit the excess on the unpaid amounts owing under the Note or this Deed of Trust. All amounts constituting interest will be spread throughout the full term of the Debt in determining whether interest exceeds lawful amounts.

9.6 Attorneys' Fees and Other Expenses. In the event of any default under this Deed of Trust, or in the event that any dispute arises relating to the interpretation, enforcement or performance of any obligation secured by this Deed of Trust, Beneficiary shall be entitled to collect from Trustor on demand all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators and court reporters. Without limiting the generality of the foregoing, Trustor shall pay all such costs and expenses incurred in connection with: (a) arbitration or other alternative dispute resolution proceedings, trial court actions and appeals; (b) bankruptcy or other insolvency proceedings of Trustor, any guarantor or other party liable for any of the obligations secured by this Deed of Trust or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any of the Property; (d) post-judgment collection proceedings; (e) all claims, counterclaims, cross-claims and defenses asserted in any of the foregoing whether or not they arise out of or are related to this Deed of Trust; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing.

9.7 Time Of Essence. Time is of the essence under this Deed of Trust and in the performance of every term, covenant and obligation contained herein.

9.8 Fixture Filing. This Deed of Trust constitutes a financing statement, filed as a fixture filing under the Uniform Commercial Code of Texas in the real estate records of the county of the state in which the real property described in Exhibit A is located, with respect to any and all fixtures included within the list of improvements and fixtures described in Section 1.2 of this Deed of Trust and to any goods or other personal property that are now or hereafter will become a part of the Property as fixtures.

9.9 Waivers. Trustor waives all suretyship defenses that may lawfully be waived, including but not limited to notice of acceptance of this Deed of Trust, notice of the incurrence, acquisition or subordination of any amounts secured hereby, credit extended, collateral received or delivered or other action taken in reliance on this Deed of Trust, notices and all other demands and notices of any description. With respect to both any amounts secured hereby and the Property, Trustor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect Beneficiary's security interest or lien in any of

the Property, to the addition or release of any person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as Beneficiary may deem advisable. To the extent not prohibited by applicable law, Trustor further waives (i) diligence and promptness in preserving liability of any person on any amounts secured hereby, and in collecting or bringing suit to collect the amounts secured hereby; (ii) all rights, if any, of Trustor under Rule 31, Texas Rules of Civil Procedure, or Chapter 43 of the Texas Civil Practice and Remedies Code, or Section 17.001 of the Texas Civil Practice and Remedies Code; (iii) to the extent Trustor is subject to the Texas Revised Partnership Act ("TRPA"), compliance by Beneficiary with Section 3.05(d) of TRPA; (iv) notice of extensions, renewals, modifications, rearrangements and substitutions of the amounts secured hereby; (v) failure to pay any amount secured hereby as it matures, any other default, adverse change in any obligor's or any Trustor's financial condition, release or substitution of collateral, subordination of Beneficiary's rights in any collateral, and every other notice of every kind; (vi) any now existing or hereafter arising right of redemption; and (vii) any right or remedy which Trustor may have or be able to assert pursuant to Section 3.605 of the UCC. Nothing in this Deed of Trust is intended to waive or vary the duties of Beneficiary or the rights of Trustor or any obligor in violation of Section 9.602 of the UCC.

9.10 Fair Market Value Determination. In the event an interest in any of the Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Trustor agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Trustor agrees that Beneficiary, Bond Trustee, or the then holder of the Bonds will be entitled to seek a deficiency judgment from Trustor and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Property was sold pursuant to judicial or nonjudicial foreclosure sale. Trustor expressly recognizes that this Section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Trustor and other persons against whom a recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Trustor further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Property for purposes of calculating deficiencies owed by Trustor, Guarantor, and others against whom recovery of a deficiency is sought. Alternatively, in the event the waiver provided for in this Section is determined by a court of competent jurisdiction to be unenforceable, in any action for a deficiency after a foreclosure under this Deed of Trust, if any person against whom recovery is sought requests the court in which the action is pending to determine the fair market value of the Property, as of the date of the foreclosure sale, the following will be the basis of the court's determination of fair market value:

- (a) The Property will be valued "as is" and in its condition as of the date of foreclosure, and no assumption of increased value because of post-foreclosure repairs, refurbishment, restorations or improvements will be made.
- (b) Any adverse effect on the marketability of title because of the foreclosure or because of any other title condition not existing as of the date of this Deed of Trust will be considered.
- (c) The valuation of the Property will be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Property for cash within a 6 month-period after foreclosure.
- (d) Although the Property may be disposed of more quickly by the foreclosure purchaser, the gross valuation of the Property as of the date of foreclosure will be discounted for a hypothetical reasonable holding period (not to exceed 6 months) at a monthly rate equal to the average monthly interest rate on the Note for the 12 months before the date of foreclosure.
- (e) The gross valuation of the Property as of the date of foreclosure will be further discounted and reduced by reasonable estimated costs of disposition, including brokerage commissions, title policy premiums, environmental assessment and clean-up costs, tax and assessment, prorations, costs to comply with legal requirements and Attorneys' Fees and Costs.
- (f) Expert opinion testimony will be considered only from a licensed appraiser certified by the State of Texas and, to the extent permitted under Texas law, a member of the Appraisal Institute, having at least 5 years' experience in appraising property similar to the Property in the county where the Property is located, and who has conducted and prepared a complete written appraisal of the Property taking into considerations the factors set forth in this Deed of Trust; no expert opinion testimony will be considered without such written appraisal.
- (g) Evidence of comparable sales will be considered only if also included in the expert opinion testimony and written appraisal referred to in subsection (vi), above.
- (h) An affidavit executed by Beneficiary, Bond Trustee, or the then holder of the Bonds to the effect that the foreclosure bid accepted by Trustee was equal to or greater than the value of the Property determined by Beneficiary, Bond Trustee, or the then holder of the Bonds based upon the factors and methods set forth in subsections (i) through (vii) above before the foreclosure will constitute *prima facie* evidence that the foreclosure

bid was equal to or greater than the fair market value of the Property on the foreclosure date.

9.11 NO ORAL AGREEMENTS. THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

9.12 Miscellaneous. Whenever the context so requires the singular number includes the plural herein, and the impersonal includes the personal. The headings to the various sections have been inserted for convenient reference only and shall not modify, define, limit or expand the express provisions of this Deed of Trust. This Deed of Trust, the Note and the other Loan Documents constitute the final expression of the entire agreement of the parties with respect to the transactions set forth therein. No party is relying upon any oral agreement or other understanding not expressly set forth in the Loan Documents. The Loan Documents may not be amended or modified except by means of a written document executed by the party sought to be charged with such amendment or modification.

9.13 Extended Low-Income Housing Commitment. The Beneficiary agrees that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42 (h)(6)(B) of the Internal Revenue Code) (the "Extended Use Agreement") recorded against the Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Property by instrument in lieu of foreclosure or comparable conversion of the Loan, in accordance with Section 42 (h)(6)(E) of the Internal Revenue Code. The Trustor acknowledges and agrees that any default, Event of Default, or breach (however such terms may be defined) under the Extended Use Agreement that would have a material adverse effect on the LIHTCs, the Trustor, or the Beneficiary shall be an Event of Default under this Deed of Trust and that any reasonable costs, damages or other amounts, including reasonable attorneys' fees incurred by the Beneficiary as a result of an Event of Default by the Trustor and any amounts paid to cure any default under the Extended Use Agreement, shall be an obligation of the Trustor and become a part of the indebtedness secured by this Deed of Trust.

9.14 VENUE AND JURISDICTION. THE EXCLUSIVE VENUE FOR THIS DEED OF TRUST SHALL BE IN TRAVIS COUNTY, TEXAS. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS DEED OF TRUST, THE UNDERSIGNED AND ANY PARTY ACCEPTING THIS DEED OF TRUST HEREBY AGREE THAT THE STATE AND FEDERAL COURTS LOCATED IN TEXAS SHALL HAVE EXCLUSIVE JURISDICTION AND VENUE WITH RESPECT TO ALL ACTIONS BROUGHT BY OR AGAINST ANY PARTY UNDER OR PURSUANT TO THIS DEED OF TRUST, AND THE UNDERSIGNED AND ANY

PARTY ACCEPTING THIS DEED OF TRUST HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS.

9.15 **WAIVER OF TRIAL BY JURY.**

- (a) **TRUSTOR AND BENEFICIARY EACH COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS DEED OF TRUST OR THE RELATIONSHIP BETWEEN THE PARTIES AS TRUSTOR AND BENEFICIARY THAT IS TRIABLE OF RIGHT BY A JURY.**
- (b) **TRUSTOR AND BENEFICIARY EACH WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

9.16 **Waiver of Marshalling.**

- (a) Notwithstanding the existence of any other security interests in the Property held by Beneficiary or by any other party, Beneficiary will have the right to determine the order in which any or all of the Property will be subjected to the remedies provided in this Deed of Trust, the Note, the Loan Agreement or any other Loan Document or applicable law. Beneficiary will have the right to determine the order in which any or all portions of the amounts owed under the Note are satisfied from the proceeds realized upon the exercise of such remedies.
- (b) Trustor and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Deed of Trust waives any and all right to require the marshalling of assets or to require that any of the Property be sold in the inverse order of alienation or that any of the Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Deed of Trust.

9.17 **Recourse.**

RECOURSE AGAINST THE TRUSTOR WILL BE LIMITED DURING THE PERMANENT TERM (AS DEFINED IN THE INDENTURE) AS PROVIDED IN SECTION 9.24 OF THE LOAN AGREEMENT.

9.18 WAIVER OF SPECIAL DAMAGES.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER TRUSTOR NOR ANY PARTY ACCEPTING THIS DEED OF TRUST SHALL ASSERT, AND ALL HEREBY WAIVE, ANY CLAIM AGAINST THE OTHERS ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS DEED OF TRUST AND/OR ANY OF THE OTHER LOAN DOCUMENTS.

[Signature Page Follows]

Doc #02-648461.2

TRUSTOR:

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas limited liability company, its general partner

By: Triton Community Development LLC,
a California limited liability company,
its managing member

By: _____

Name: William E. Rice

Title: Managing Member

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2019, by William E. Rice, the Managing Member of Triton Community Development, LLC, a California limited liability company on behalf of said limited liability company, in its capacity as managing member of TCD McMullen GP, LLC a Texas limited liability company, the general partner of TCD MCM, LP, a Texas limited partnership.

Notary Public, State of Texas

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT "B"

This Deed of Trust is made and accepted subject to those certain liens, easements and encumbrances of title set forth in the Schedule of Exceptions from Coverage to the loan policy issued by _____ Title Insurance Company (File No. _____) insuring the lien of this Deed of Trust.