

CITY / COUNTY OF X
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

(1) CITY / COUNTY LOAN AGREEMENT
LOAN NUMBER **XX-HOME-XXXXX**

This **City/County** Loan Agreement (“Agreement” or “Loan Agreement”) is made and entered into **XXth day of MONTH, YEAR**, (the “Effective Date”) by and between the **City/County of X**, a municipal corporation of the State of California (“City” or “County”), **BORROWER NAME, a(n) ENTITY TYPE** (the “Borrower”), **SPONSOR NAME, a(n) ENTITY TYPE** (the “Sponsor”). **City/County, Borrower and Sponsor** are collectively referred to herein after as the “Parties”.

The term of this Agreement is fifty-five (55) years from the date of Project completion as “project completion” is defined at 24 C.F.R. §92.2.

*****DISCLAIMER*****

City/County, Borrower, and Sponsor understand that the Department may provide sample-template loan documents to its grantees, such as City/County, to assist such grantees in documenting their loans or grants to their awardees. City/County, Borrower, and Sponsor each separately acknowledge and affirm, as part of their acceptance and use of funds from the Department, that any sample template loan documents provided by the Department are generic template documents that are not intended to be used without prior review and modification by the City/County’s own independent legal counsel and those of the other parties to such documents. Such sample template loan documents, which are provided As-Is without warranty of any kind, must be customized to fit a given transaction in light of the specific circumstances and internal loan and grant processes of City/County, including but not limited to, any necessary or required consumer lending disclosures as determined by City/County and its legal counsel. The Department shall have no liability of any kind or nature for any losses or damages incurred by any party due to the use of any sample generic template documents provided to it by the Department, and the parties hereto hereby fully and forever waive and release any and all claims against the Department, its employees, appointees, directors, agents, and their respective successors, heirs, and assigns, relating to the parties’ use of any sample generic template documents prepared or supplied by the Department. Moreover, in no event or circumstance shall the provision of sample draft documents to City/County create, either expressly, impliedly, or by operation of law, an attorney-client relationship between the Department and any other party, nor any kind of agency or partnership relationship between the Department and any third party. Such relationships are hereby expressly disclaimed.

In connection with the foregoing waivers and releases, the parties hereto expressly, knowingly and voluntarily, with the advice of their respective counsel, acknowledge and agree to waive the provisions of California Civil Code section 1542, which provides as follows:

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor’s Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

The releasing parties are aware of the meaning of California Civil Code section 1542 and intend to waive and relinquish any and all rights and benefits which they may have under the statute and to fully assume the risk of any then-existing but as yet unknown claims.

Recitals

WHEREAS, **City or County** has entered into a 55-year Standard Agreement, **[CONTRACT NUMBER]** dated **MONTH DD, YYYY**, with the California Department of Housing and Community Development (the “Department”), for participation in the Home Investment Partnerships Program (the “HOME Program” or “HOME”) under 24 CFR Part 92, as amended, 25 C.C.R §8200 et seq, (Department HOME Regulations (“HOME Regulations”), Health and Safety Code, including but not limited to § 50896, HOME Consolidated Plan and Annual Action Plan, as amended and updated, and the Uniform Multifamily Regulations at 25 C.C.R. § 8300 et seq. (the “UMRs”), and other state statutes as may be applicable, all of which are incorporated by reference (collectively refer to as “HOME Program Regulation”), (the “Standard Agreement”) ; and

WHEREAS, **City/County**, as the state recipient (and/or Lender and/or Grantor, all terms to be used interchangeably) for the HOME Program, is responsible for the planning, administration, implementation, and evaluation of the program; and loaning and/or granting of such HOME Program funds received from the **City/County** to subrecipient borrower(s) (“Borrower(s)”) and/or grantee(s) (“Grantee(s)”) (as Sponsors, Developers, and/or Community Housing Development Organizations (“CHDO”) as applicable (“Subrecipient”) for (if applicable) the construction and/or development and/or ongoing operating, repairs and management of low-income multifamily and/or other residential property/ies; and

WHEREAS, **City/County** desires to assist Borrower (and/or Grantee as applicable) by providing HOME Program funds to assist with the gap financing of a **XX-unit** rental housing development of which **XX** units will be HOME-Assisted Units to be occupied by low and very low-income households which is located in County of **[Name of County]** at **[Street address]**, APN # **XXXXXXXX**, as more fully described in Exhibit “A” attached hereto (the “Development”); and

WHEREAS, the Development will be constructed, and/or sponsored, and/or managed and operated in accordance with that certain Senior Regulatory Agreement dated as of the date hereof and executed substantially in the form attached hereto as Exhibit “G” (the “Senior Regulatory Agreement”); and which Senior Regulatory Agreement shall be recorded as senior in priority to all deeds of trust of all other lenders; and

WHEREAS, the Development will be constructed , and/or sponsored, and/or managed and operated in accordance with that certain Junior Regulatory Agreement dated as of the date hereof and executed substantially in the form attached hereto as Exhibit “H” (the “Junior Regulatory Agreement”).

WHEREAS, the **City/County**’s HOME Program loan to the Borrower shall be evidenced by a Promissory Note and secured by a Deed of Trust, each dated as of the date hereof and executed substantially in the forms attached here as Exhibit “I” (the “Note”) and Exhibit “J” (the “Deed of Trust”), which shall be recorded against the Development.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor’s Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

WHEREAS, the Loan shall be evidenced by certain documents including this Agreement, the Note, the Deed of Trust, the Senior Regulatory Agreement, the Regulatory Agreement and other instruments required by **City/County** or the Department (collectively, the "Loan Documents")

NOW, THEREFORE, in consideration of the mutual promises and other valuable consideration as stated in this Agreement and the attached related additional agreements which are all incorporated as exhibits to this Agreement, including by this reference, the Parties agree that the HOME Program funds shall be loaned to Borrower by **City/County**, subject to the following conditions and limitations. **City/County** expressly would not enter into this Agreement without such Borrower representations and promises, and detrimentally relies thereon. Any terms not defined herein shall have the meaning set forth in the Senior Regulatory Agreement and Junior Regulatory Agreement.

All disclaimers and recitals stated above are expressly incorporated into this Agreement.

A. Recitals

1. The foregoing recitals are a part of this Agreement.

B. Development

1. The Borrower must [**construct/acquire, develop/rehabilitate**] on the Property a rental housing project with **XX**-residential rental units in accordance with the Plans and Specifications described in Exhibit B, attached hereto, and made a part hereof. Borrower and **City/County** hereby agree to the Scope and Distribution of Work, as set forth in Exhibit B.

C. Sources and Uses

1. The Borrower has received, or will receive, funds for the purpose of developing, constructing and permanently financing the Development in the amounts and from the sources identified in the chart, entitled "Sources and Uses of Funds," in Exhibit C, attached hereto and made a part hereof. All funds must be used and secured in the manner specified in Exhibit C. Borrower agrees to comply with and satisfy all the terms and conditions imposed on it in connection with the sources of funding identified in Exhibit C.

D. Status of Borrower

1. Borrower must not permit or agree to any amendment or modification to the Partnership Agreement, Operating Agreement, or Articles of Incorporation and Bylaws, as applicable, previously submitted to the **City/County** and upon which the Loan was based without the prior written approval of the **City/County**. Where Borrower is a limited partnership, Sponsor shall retain its ownership interest and direct control of the limited partnership. For a limited liability company or a corporation, Sponsor shall maintain control of the entity.

E. Scope of Services

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

1. **City/County** shall loan an amount not to exceed **XX Dollars and No Cents (\$0.00)** to Borrower in HOME Program funds bearing simple interest at the **rate of three percent (3%)** per year with a term of fifty-five (55) years from the date of Project Completion as specified in 24 CFR 92.2, as amended, (the "Loan"), the Loan must be used to assist with costs, fees and services related to and actual **(Choose applicable: Construction and/or Permanent)** financing of the construction / development costs, as applicable including any reimbursement as may be allowed by applicable law (the "Development Costs"). Payments shall be made annually based on Residual Receipts as such term as defined in Paragraph 49, with the first payment due, if any, on **MONTH DAY** in the year following the first complete calendar year after the Date of Completion, as defined below. Payments shall be credited first to any unpaid late charges and other costs and fees then due, then to accrued interest, and then to principal. The Development shall be completed by **MONTH DAY, YEAR** (the "Date of Completion"), unless otherwise agreed in writing by **City/County**. The **City/County**, as a lender, shall close its Loan through an escrow account with a title company; and shall obtain: an (i) an American Land Title Association ("ALTA") 2021 or later extended title insurance policy insuring the **City/County** against financial loss due to title defects affecting the subject property. The policy shall include all **City/County** required endorsements, including at a minimum **[insert endorsements from the escrow instructions]**; and (ii) an ALTA Survey of the Development (whether undeveloped or as built) to protect the **City/County** against financial loss due to title defects on the subject property. During the term of the Loan, Borrower must procure and deliver to the **City/County**, within five (5) working days of the **City/County's** request, other endorsements to the Title Policy as the **City/County** may reasonably require.

"Construction" or "construct" shall refer to the work being performed by Contractor pursuant to the Agreement, whether such work is for the new construction or performance of rehabilitation work.

2. Borrower agrees that any Development costs, unless otherwise specified, which exceed the **\$0.00** in HOME Program funds provided by **City/County** pursuant to this Agreement shall be the responsibility of Borrower. Borrower further agrees to pay maintenance and operating costs for the Development. In no event shall any amount due under the Note become subject to any rights, offset, deduction or counterclaim on the part of Borrower, and Borrower must follow the waterfall provisions in UMR section 8314, with any applicable **City/County** Loan being treated as "mandatory debt" thereunder.
3. Changes in the Scope of Services, as outlined herein shall be in accordance with the HOME Program Regulations, made by written amendment to this Agreement and approved by both Parties. Any such changes shall comply with HOME Program Regulations.
4. HOME Program funds shall be disbursed at the time of and following construction loan closing upon submission to **City/County** a written request for funding, provided that the Conditions to Disbursement described below have been satisfied.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

F. General Conditions. Borrower agrees to abide by all conditions fully set forth below.

1. Borrower has agreed that **NUMBER OF UNITS (XX)** units shall be Assisted Units as defined in the Senior Regulatory Agreement and Junior Regulatory Agreement. These units shall serve low-income **[household OR seniors at a minimum age of [55 or 62]** and have HOME rents. The location of the units may float throughout the Development.
2. Term: Unless terminated sooner pursuant to Section F. 70, this Agreement is effective on the date set forth above and will terminate on the date that is fifty-five (55) years from the date that all of the following events have occurred:
 - a. The completion of the Development and acceptance by the City/County in accordance with the Plans and Specifications described in Exhibit B.
 - b. Submittal to the **City/County** of a Certificate of Occupancy for the Development by the local jurisdiction.
 - c. Submittal to the **City/County** a copy of the recorded Notice of Completion for the Development.
 - d. Submittal of all required lien waivers, or passage of the applicable statutory periods for filing mechanic, or other similar liens.
3. Representations and Warranties: Borrower represents and warrants to the **City/County** as follows:
 - a. Organization: Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own the Property and to own, develop, construct, operate and maintain the Development. The copies of the documents evidencing the organization of Borrower delivered to the **City/County** are true, complete, and correct copies of the originals, as amended to the date of this Agreement.
 - b. Authority of Borrower: Borrower has full power and authority to execute and deliver this Agreement, the other Loan Documents and all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.
 - c. Authority of Persons Executing Documents: The Loan Documents and all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Borrower. All actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement, the other Loan Documents and all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.
 - d. Valid Binding Agreements: The Loan Documents and all documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed, and delivered, constitute legal, valid and binding obligations of Borrower enforceable against it in accordance

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor's Identification Number: **xxx xxx xxxxx**

Contract No.: **-HOME-**

- with their respective terms.
- e. No Breach of Law or Agreement: None of the execution or delivery of the Loan Documents or of any document or instrument executed and delivered, or to be executed or delivered, pursuant to this Agreement, or the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission, or agency whatsoever binding on Borrower or any provision of the organizational documents of Borrower, will conflict with or constitute a breach of or a default under any agreement to which Borrower is a party, or will result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens approved by the **City/County**.
 - f. Compliance with Laws; Consents and Approvals: The Development will comply with all applicable laws, ordinances, rules and regulations of federal (including but not limited to the Americans with Disabilities Act of 1992), state and local governments and agencies having jurisdiction over either the Borrower, the Property or the Development and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency. All permits, consents, permissions and licenses required by any federal, state or local government or agency to which Borrower, the Property or the Development is subject, which may be necessary in relation to this Agreement or the acquisition, development, construction or ownership of the Development, at or prior to the commencement of construction, have been, or will be, obtained, and none of such consents, permissions and licenses are subject to appeal or to conditions which have not been met.
 - g. Pending Proceedings: Borrower is not in default under any law or regulations or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower, the Property or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to acquire, construct or develop the Development or repay the Loan or impair the security to be given to the **City/County** pursuant hereto.
 - h. Title to Property: Upon recordation of the Deed of Trust, Borrower will have good and marketable title to the Property, or a leasehold interest therein approved by the **City/County** and there shall exist thereon or with respect thereto no mortgage, lien, pledge, or other encumbrance of any character whatsoever other than liens for current real property taxes and assessments not yet due and payable and other matters of record approved in writing by the **City/County**.
 - i. Financial Statements: The financial statements of Borrower and any general partner of Borrower and other financial data and information furnished by Borrower to the **City/County** fairly and present the information contained therein. As of the date of this Agreement, there has not been any adverse, material change in the financial condition of Borrower or any general partner of Borrower from that shown by such financial statements and other data and information.
 - j. Adequacy of Loan: The amount of the Loan, together with any funds to be provided by the Borrower or to the Borrower from any other sources, is adequate as permanent financing for the Development in accordance with Exhibit C.

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXX**

Assessor's Identification Number: **xxx xxx xxxx**

Contract No.: **-HOME-**

- k. Payment of Taxes: All federal, state, county and municipal taxes required to be paid by the Borrower or on account of the Property due and payable as of the date of this Agreement have been paid in full as of such date.
 - l. Availability of Utilities: All utilities necessary for the development and occupancy of the Development are available at or within the boundaries of the Property and all steps necessary to assure that such utility services will be available upon completion of the Development have been taken.
 - m. Hazardous Materials: Borrower has performed a due diligence review of the condition of the Property including a review to disclose the possible existence of asbestos and toxic or hazardous materials. All information regarding the condition of the property has been disclosed to the City/County in writing including but not limited to all Phase I, soils and hazardous materials reports regarding the condition of the Property. Borrower has, or shall execute, an Unsecured Environmental Indemnity Agreement, a copy of which has previously been provided to the Borrower. The obligation created thereunder shall be independent of the obligations arising under the Note and Deed of Trust or any other agreements secured by the real property.
4. Borrower has requested the financial support of City/County that is provided for in this Agreement in order to enable Borrower to provide affordable housing services. City/County shall have no relationship whatsoever with the services provided, except the provision of financial support, monitoring, and the receipt of such reports as are provided for herein. Borrower represents that such reports shall be true and correct to the best of its knowledge. Fraudulent statements by the Borrower on a report or deliverable required to be submitted by the Borrower shall be grounds for termination of the agreement and may result in legal action. To the extent, if at all, that any relationship to such services on the part of City/County may be claimed or found to exist, Borrower shall be an independent contractor only.
5. Borrower shall obtain any and all federal, state, and local permits and licenses required to complete the Development as described in this Agreement. Borrower further agrees to abide by all applicable federal, state, and local codes, regulations, statutes, ordinances, and laws, as amended.
6. Borrower shall provide City/County with client usage records on an annual basis during the period of this Agreement. These records shall include (where applicable), but not be limited to, the following data:
- a. Total clients served;
 - b. Racial breakdown of clients served including Black, White, Hispanic, American Indian / Alaskan and Asian / Pacific Islander;
 - c. Number and percentage of very low-income clients as defined by United States Department of Housing and Urban Development (“HUD”) Income Guidelines;

- d. Number of disabled clients served;
 - e. Number of female head-of-households served;
 - f. Name of each head of household served;
 - g. Number of persons in each household served; and
 - h. Rent charged each household served.
7. A copy of move-in certifications for the Assisted Units shall be sent to **City/County** upon tenant certification. Borrower will send additional copies of annual tenant certifications and new move-in certifications to the **City/County** as requested and specified by the **City/County**.
8. Borrower shall not lease any portion of the Assisted Units to other than HOME-eligible tenants, as defined in the HOME Regulations (24 CFR 92, as amended). Any lessee, sub-lessee, or assignee of a HOME Assisted Unit shall meet HOME Program requirements and serve eligible low-income residents.
9. If the affordable housing units, or any portion thereof, are subleased without the prior written approval of **City/County** or if, through foreclosure, sale, or other circumstances Borrower loses legal possession of the Development, Borrower shall, upon the request of **City/County**, repay to **City/County**, the remaining balance of the Loan that Borrower received from **City/County** hereunder. The Deed of Trust shall be subordinated to the permanent lender deed of trust securing the permanent loan, and **City/County** hereby agrees to subordinate the Deed of Trust to the permanent lender deed of trust at such date. **City/County** shall subordinate, in accordance with the Uniform Multifamily Regulations, the **City/County** Deed of Trust to any financing entered into in connection with a sale or refinancing of the Development. If Borrower chooses to sell, transfer or otherwise convey the Development, the term of the affordability will remain with the Assisted Units pursuant to deed restrictions placed on the Development.
10. Borrower shall not allow any liens or other encumbrances or any mortgages or other security interest during the Period of Affordability (defined below) without the prior written consent of **City/County**. Borrower has the consent of **City/County** to secure mortgages and other financing with other construction and permanent mortgage lenders which expressly includes any affiliate of a general partner of Borrower, state tax credit allocating agencies (if any), and the limited partners as the permanent financiers of the Development. Any permanent loan by Borrower from an affiliate of a general partner shall be considered third party debt and payable in accordance with Section F. 49 (b)(III) of this Agreement. Notwithstanding the foregoing, the **City/County** hereby consents to Borrower obtaining a construction loan from **BANK NAME** and a permanent mortgage loan made by **BANK NAME**.
11. Other than transfers permitted without **City/County** consent set forth in Section 86,

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxxx**
Contract No.: **-HOME-**

Borrower shall not assign or delegate any of its rights, interests or duties under this Agreement without the prior written consent of **City/County**, which consent shall not be unreasonably withheld. Any such assignment of delegation made without the required consent shall be voidable by **City/County**, and may, at the option of **City/County** and subject to all applicable notice and cure periods, constitute an Event of Default (defined below).

12. Borrower shall carry or provide insurance as set forth in the Senior Regulatory Agreement.
13. Borrower shall allow duly authorized representatives of **City/County** and the Department to conduct such periodic reviews, audits and on-site monitoring of the Development as **City/County** deems to be appropriate in order to determine:
 - a. Whether the objectives of the Development are being achieved;
 - b. Whether the Development is being conducted in an efficient and effective manner;
 - c. Whether management control systems and internal procedures have been established to meet the objectives of the Development;
 - d. Whether financial operations of the Development are being conducted properly;
 - e. Whether the periodic reports to City/County contain accurate and reliable information; and
 - f. Whether all of the activities of the Development are conducted in compliance with the provisions of Federal and State laws and regulations and this Agreement.

Visits by **City/County** to the Development shall be announced to Borrower in advance of those visits and shall occur during normal operating hours. The representatives of **City/County** may request, and, if such a request is made, shall be granted, access to all of the records of Borrower which relate to the Development. The representatives of **City/County** may, from time to time, interview recipients of the housing services of the Development who volunteer to be interviewed.

14. At any time during normal business hours, Borrower records with respect to the Development shall be made available for audit, examination and review by **City/County**, their attorney(s), contracted independent auditors, HUD, the Comptroller General of the United States, or any combination thereof.
15. Borrower shall protect, defend, indemnify, and save and hold harmless **City/County** and the Department, its officers, employees and agents from and against any and all liability, damages, demands, claims, suits, liens, and judgments of whatever nature including, but not limited to, claims for contribution or indemnification for injuries to or death of any person or persons, caused by, in connection with, or arising out of any activities undertaken pursuant to this Agreement including, but not limited to, the construction or operation of the Project. Borrower's obligation to protect, defend, indemnify, and save and hold harmless as set forth in this Section 75.a shall include any and all reasonable attorneys'

fees incurred by City/County and The Department, its officers, employees and agents in the defense of handling of said suits, demands, judgments, liens and claims and all reasonable attorneys' fees and investigation expenses incurred by City/County and The Department, its officers, employees and agents in enforcing or obtaining compliance with the provisions of this Agreement. The foregoing notwithstanding, Borrower's indemnity obligation hereunder shall not apply to any claims arising from the gross negligence or willful misconduct of City/County and The Department or any of City's/County and The Department's respective officers, employees and agents.

16. Borrower shall not use any funds or resources which are supplied by City/County in litigation against any person, natural or otherwise, or in its own defense in any such litigation and Borrower agrees to notify City/County promptly of any legal action which is filed by or against Borrower which is likely to have a material adverse effect on Borrower or the Development.
17. This Agreement shall commence on the Effective Date. The Period of Affordability shall be governed according to the terms and conditions set forth in Section 38 below.
18. Borrower agrees that no officer or employee of Borrower may seek or accept any gifts, service, favor, employment, engagement, emolument or economic opportunity which would tend, or could be reasonably perceived, to improperly influence a reasonable person in that position to depart from the faithful and impartial discharge of the duties of that position.
19. Borrower agrees that no officer or employee of Borrower may use his or her position to secure or grant any unwarranted privilege, preference, exemption or advantage for himself or herself, any member of his or her household, any business entity in which he or she has a financial interest or any other person.
20. Borrower agrees that no officer or employee of Borrower may suppress or destroy any report or other document because it might tend to affect favorably or unfavorably that officer's or employee's private financial interests.
21. Borrower shall keep and maintain in effect at all times any and all licenses, permits, notices, insurances and certifications which may be required by any City/County ordinance or state or federal statute.
22. Borrower shall be bound by all county ordinances and state and federal statutes, conditions, regulations and assurances which are applicable to the entire HOME Program or are required by HUD, City/County, or any combination thereof.
23. At the discretion of City/County, any material breach of this Section 14b. may, subject to the cure rights under Section 69h. after thirty (30) day notice to Borrower and Borrower's limited partners and a failure thereby to cure such material breach, result in forfeiture of all HOME Program funds received by Borrower pursuant to this Agreement, or any part thereof.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

24. A draft cost certification shall be submitted by Borrower to **City/County** at least sixty (60) days prior to conversion to permanent financing of the Development.
25. The obligations of Borrower shall be nonrecourse as described in the Note.
26. Notwithstanding anything to the contrary herein, any cure of any default or Event of Default made or tendered by a limited partner of Borrower shall be deemed a cure made or tendered by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent to Borrower under the terms of this Agreement shall also be sent to Borrower's limited partner as defined in Section 69.
27. The limited partner of Borrower shall be permitted to remove one or more general partners thereof for cause, pursuant to the terms of Borrower's Amended and Restated Agreement of Limited Partnership dated **DATE**, as amended from time to time (the "Partnership Agreement"). Moreover, if any limited partner of Borrower exercises its right to remove a general partner thereof, **City/County** shall not unreasonably withhold its consent to the substitute general partner; provided that, replacement of a general partner with the Borrower's limited partner or administrative limited partner, or an affiliate thereof, on a temporary basis shall not require the consent of the **City/County**. The respective interests of Borrower's limited partners shall be transferrable without the consent of **City/County**. Consent of **City/County** shall be required for any amendment to the Partnership Agreement in order to effectuate a transfer which requires **City/County** consent under this Section 86. In cases where consent of **City/County** is not required, **City/County** will be notified of the action.
28. In addition to the foregoing delivery of evidence of required insurance, the following conditions (the "Conditions to Disbursement") shall be: (i) Borrower's execution and delivery to **City/County** this Agreement, the Note, the Deed of Trust, the Senior Regulatory Agreement, and the Junior Regulatory Agreement; (ii) closing of all construction financing, proof of commitment of permanent financing and the recordation of the Deed of Trust, the Senior Regulatory Agreement, and the Junior Regulatory Agreement in the Official Records of **XXX County**; (iii) Borrower's delivery to **City/County** evidence reasonably satisfactory to **City/County** that there are no mechanics' liens or stop notices related to the Property or the Development other than those being contested by Borrower in good faith, and Borrower's provision to **City/County** of conditional general contractor lien waivers (subject only to the payment of fees) or final general contractor waivers or releases of lien claims if required by **City/County**; (iv) prior to the initial disbursement, Borrower's delivery to **City/County** the final executed Partnership Agreement and certified copies of the formation documents for each of Borrower's general partners, documentation of the managing general partner's tax-exempt status, and resolutions authorizing Borrower's execution of and performance under this Agreement, the Note, the Deed of Trust, the Senior Regulatory Agreement, and the Junior Regulatory Agreement; and (v) no material adverse change as determined by **City/County** in its reasonable judgment shall have occurred in the condition of the Property or in the financial or other condition of Borrower since the Effective Date.

29. Notwithstanding any other provision of this Agreement, **City/County** shall have no obligation to disburse or authorize disbursement of any portion of the HOME Loan proceeds following: (i) subject to any applicable notice and cure period, the failure of any of Borrower's representations and warranties made in this Agreement or in connection with the HOME Loan to be true and correct in all material respects; (ii) the termination of this Agreement by mutual agreement of the Parties; or (iii) the occurrence and continuance of an Event of Default under this Agreement, the Senior Regulatory Agreement, the Junior Regulatory Agreement, the Note or the Deed of Trust that remains uncured beyond any applicable cure period, or the existence of any condition, event or act which upon the giving of notice or the passage of time or both would constitute an Event of Default under any such document.
30. Borrower shall comply with the following laws and directives that include but not limited to:
- a. Title VIII of the Civil Rights Act of 1968, Public Law 90-284.
 - b. Section 109 of the Housing and Community Development Act of 1974.
 - c. Title VI of the Civil Rights Act of 1974, Public Law 99-352, and the regulations of HUD with respect thereto, including 24 CFR, Parts 1 and 2.
 - d. The Fair Housing Act, as amended.
 - e. Executive Order 11063, as amended.
 - f. The Age Discrimination Act of 1975.
 - g. Section 504 of the Rehabilitation Act of 1973.
 - h. Executive Order 11246, as amended, and the regulations which are issued pursuant thereto.
 - i. The Fair Labor Standards Act.
 - j. Section 202(a) of the Flood Disaster Protection Act of 1973.
 - k. Sections 302 and 401(b) of the Lead-Based Paint Poisoning Prevention Act and implementing regulations in 24 CFR, Part 35.
31. No officer, employee or agent of **City/County** shall have any interest, direct or indirect, financial or otherwise, in any contract or subcontract or the proceeds thereof, for any of the work to be performed pursuant to the Development during the period of service of such officer, employee or agent, for one year after dismissal.
32. None of the personnel employed in the administration of the Development shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 Title 5, U.S. Code.

33. None of the HOME Program funds to be paid under this Agreement shall be used for any partisan political activity, or to support or defeat legislation pending before Congress.
34. Borrower shall carry out its activities in compliance with all Federal laws and regulations described in 24 CFR Part 92, as amended, which are applicable to Federal Fiscal Year HOME Program grants, except that Borrower will not assume **City's/County's** environmental responsibilities described in 24 CFR 92.352, nor the intergovernmental review process described in 24 CFR 92.357.
35. Borrower shall maintain records in accordance with 24 CFR 92.508.
36. Borrower in its discretion may request such other and further information, as from time to time required to ensure compliance with the mandates of the above listed Executive Orders.
37. Intentionally deleted.
38. For a period of fifty-five (55) years (the "Period of Affordability"), as further defined in the Senior Regulatory Agreement and the Junior Regulatory Agreement, Borrower agrees to maintain the residential units of the Development as affordable housing in accordance with the **Senior Regulatory Agreement and the Junior Regulatory Agreement**, subject to termination prior to the expiration of such period as provided in Section 5 of the Regulatory Agreement.
39. Borrower agrees to maintain the Development in compliance with Housing Quality Standards established by HUD for the Section 8 Program and local housing code requirements for the duration of this Agreement.
40. Borrower agrees that the Period of Affordability established in Section 38 shall commence from the date of "Project Completion" as specified at 24 CFR 92.2.
41. Borrower agrees that, for the duration of this Agreement, the Development will be operated in compliance with HOME Regulations, including without limitation those contained in 24 CFR Part 92 as amended.
42. All leases with tenants living in Assisted Units shall be made for not less than one (1) year, unless a shorter term is mutually agreed upon between Borrower and tenant. All such leases must comply with the requirements set forth in 24 CFR 92.253.
43. Borrower agrees to recertify tenant HOME Program eligibility at least annually as required by HUD regulations.
44. Borrower agrees that maximum rents charged shall not exceed those calculated per HOME Program Regulations, and that Borrower will supply tenants with written notice at least thirty (30) days before implementing any rent increase.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxxx**
Contract No.: **-HOME-**

45. Borrower agrees that all costs of the Development shall be recorded by the following, but not limited to budget line items, and be supported by checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents evidencing in proper detail the nature and propriety of the respective charges, and that all checks, payrolls, time records, invoices, contracts, vouchers, orders or other accounting documents which pertain, in whole or in part, to the Development shall be thoroughly identified and readily accessible to **City/County**.
46. Borrower agrees that excerpts or transcripts of all checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents related to or arguably related to the Development shall be provided upon request to **City/County**.
47. Borrower agrees that it shall not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs. The amount of each request shall be limited to the amount of eligible costs in compliance with 92.206.
48. Conditions of Disbursement. Loan funds must be disbursed for eligible costs based on the percentage of the Project completed less ten percent (10%) of any hard costs and in compliance with this Loan Agreement, unless the **City/County** releases retention in order to expend the Program Loan funds prior to HUD's regulatory expenditure deadline of **Month DD, YYYY**. The **City/County** is not obligated to make any disbursements or take any other action under the Loan Documents unless all of the following conditions precedent are satisfied at the time of such action:
- a. All Loan Documents have been duly executed in a form acceptable to the **City/County** and where necessary acknowledged and suitable for recordation;
 - b. Borrower has obtained all required permits and approvals required for the lawful construction and occupancy of the units;
 - c. Borrower has obtained all necessary insurance;
 - d. There exists no Event of Default, as defined in this Loan Agreement, or any other of the Loan Documents, or event, omission or failure of condition which would constitute a default or Event of Default after notice or lapse of time, or both that will not be cured concurrently with the funding of the Loan;
 - e. Borrower has obtained any other required permanent financing (or equivalent, alternative financing approved by the **City/County**) and has adequate funding to operate the Development;
 - f. Borrower has obtained for the **City/County**, at Borrower's expense, the Title Policy insuring the Deed of Trust;
 - g. Borrower has satisfied all requirements for receipt of the Loan in accordance with the HOME Program regulations and guidelines and the funds for the Loan are available to the HUD;

- h. Borrower has complied with all special conditions contained hereto, if applicable, which are conditions precedent to the disbursement of funds; and
- i. Borrower has completed, executed, and submitted to the City/County, on a form provided by the City/County a request for disbursement of proceeds of the Loan including signing an assurance that items (a)-(h) above have been satisfied.

49. Borrower agrees to repay the Loan based upon an annual audit of the Development in which Residual Receipts are determined as defined below:

- a. Borrower, or Borrower's management agent, shall promptly deposit all Operating Income in a segregated account established exclusively for the Development with a Federal Deposit Insurance Corporation ("FDIC")-insured, or other comparable federally-insured financial institution.
- b. Withdrawals from the account shall be made only in accordance with the provisions of this Agreement, and the approved budget, and shall be disbursed, applied, or reserved and set aside for payment when due for all costs related to the Development including, but not limited to, the following:
 - I. Salaries, wages, and any other compensation due and payable to the employees or agents of Borrower or management agent employed on site in connection with the maintenance, administration or operation of the Development, along with all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required in connection with such employees;
 - II. All charges incurred in the operation of the Development in connection with utilities, any required real estate taxes to City/County and assessments, and liability, fire and other hazard insurance;
 - III. Payments of required interest, principal, impounds, fees and charges, if any, on loans (other than the HOME Loan) which are secured by liens on the Property and which have been approved by City/County until such time as such loans are repaid in full;
 - IV. All other expenses incurred to cover operating costs, including the fee of the managing agent, Tax Credit Adjuster Payments, payments of principal and interest on any Operating Loan or Voluntary Loans advanced under the Partnership Agreement and approved in writing by the City/County, and any extraordinary expenses, in accordance with the approved annual operating budget of the Development or as otherwise approved in advance by the City/County;
 - V. Deposits to operating reserve accounts, replacement reserve accounts and other reserve accounts, if applicable, as outlined in the Senior Regulatory Agreement;
 - VI. Deferred Developer Fee (including interest accrued thereon); until paid in full;
 - VII. Payment of the Annual Monitoring Fee as outlined in the Senior Regulatory Agreement; and

VIII. Payment of the Asset Management Fee, the Partnership Management Fee and the Incentive Management Fee as defined in the Senior Regulatory Agreement.

- c. The balance of Operating Income, as defined in the Senior Regulatory Agreement, remaining after the payments described in this Loan Agreement shall be deemed Residual Receipts. The amount paid to City/County towards unpaid accrued interest and then to principal on the HOME Loan shall be calculated as follows: City/County Loan unpaid principal balance divided by the combined unpaid principal balances of all subordinate debt. The calculated proportion applied to 50% of Residual Receipts and must be consistent with the Department's Uniform Multifamily Regulations, as amended

50. Changes in work to be performed ("Change Orders").

- a. No Change Orders shall be allowed unless specifically stated in writing by the Borrower and City/County. Change Orders may also be subject to the approval of the senior mortgage lender. Except for the purpose of being protected against an emergency endangering life or property, Borrower shall make no changes in the proposed work which would include any extra or additional work, supply additional labor, services or materials beyond what is actually required for the execution of the contract, if such change requires the consent of the senior mortgage lender, unless pursuant to a written order from the Borrower and City/County authorizing the change. No claim for an adjustment of contract price that requires the consent of the senior mortgage lender will be valid unless so approved in writing by the City/County.
- b. Any Change Order shall include in its final form a detailed description of the proposed change in the work, a definitive statement as to the resulting change in the contract price and/or time of completion and the statement that all work involved in the changes are allowable under the HOME Program Guidelines, and in accordance with the contract requirements except as modified by the Change Order.
- c. All Change Order requests that require the City/County consent under section 50a above, shall be submitted to City/County in writing and City/County shall have ten (10) business days from receipt of the submission to approve or disapprove said Change Order requests. If not approved in writing within ten (10) business days, the City/County shall be notified in writing, by the Borrower, that said Change Order shall be deemed approved at the end of three (3) business days from the date the Notice is received by the City/County.
- d. To the extent that the City/County determines that a proposed Change Order will result in a cost increase, upon written demand from the City/County, Borrower must provide evidence satisfactory to the City/County that adequate funds are available to pay such increased costs. Upon written demand by the City/County, Borrower must deposit into a construction escrow account such funds as the City/County reasonably determines to be necessary to ensure payment of the increased costs.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxxx

Contract No.: -HOME-

- e. Within thirty (30) days after the filing of a notice of completion for the Development, Borrower must provide to the **City/County** without cost a copy of the final as built Plans and Specifications, including actual changes to the work, for the completed Development.

- 51. Architect: For the performance of design and design supervision work on the Development, Borrower agrees to use the architect identified in Exhibit B. Any successor to or substitute for the Architect must be approved in writing by the **City/County**. Borrower must not terminate the services of the Architect without written approval of the **City/County**.
- 52. Contractors and Subcontractor: For the performance of any construction work on the Development, Borrower agrees to use the general contractor identified in Exhibit B (the "Contractor"). Any successor to or substitute for the Contractor must be approved in writing by the **City/County**. The Borrower hereby certifies that the Contractor is not on the Federal Debarred list and is appropriately licensed by, and in good standing with, the California State Contractors' License Board and agrees that the Borrower must only contract with contractors and must ensure that the Contractor and any successor thereto must only contract with subcontractors, which are so licensed.
- 53. Construction Contract: The Borrower must enter into a written contract with the Contractor for the performance of the construction work as set forth in Paragraph 52 above (the "Construction Contract"). The Construction Contract must include as part of its terms, the Construction Contract Addendum from Exhibit D of this Agreement. The Construction Contract must not be entered into by the Borrower prior to receiving the **City/County's** written approval of the Contractor and the form of the Construction Contract. Borrower must not terminate or amend the Construction Contract, or the Construction Contract Addendum without the prior written approval of the **City/County**. Borrower must monitor and enforce the terms and conditions of the Construction Contract, including the Construction Contract Addendum.
- 54. Construction Responsibilities: Borrower must be solely responsible for all aspects of Borrower's business and conduct in connection with the Property and the Development, including, but not limited to, the quality and suitability of the Plans and Specifications and the equipment used in the construction of the Development, the supervision of the work of construction, the qualifications, financial condition and performance of all architects, engineers, contractors and subcontractors of any tier, material suppliers, consultants and property managers, and the accuracy of all applications for payment and the proper application of all disbursements.
- 55. Delay: Borrower must promptly notify the **City/County** in writing of any event causing delay or interruption of construction in excess of (3) three working days, or the timely completion of construction for a period of (5) five working days beyond the scheduled completion date. The notice must specify the particular work delayed and the cause and period of each delay.

56. Purchase of Materials Under Title Retention Agreement: The Borrower must not purchase or install or permit to be purchased or installed any materials, equipment, fixtures, or other part of the Development under any agreements or arrangements wherein the supplier or seller reserves or purports to reserve the right to remove or to repossess any such items or to consider them personal property after their incorporation into the Development, unless authorized in writing by the **City/County**.
57. Material Warranties: The Borrower must procure from the Contractor all warranty documents, including warranties on appliances and on building components (such as the roof and siding, etc.), and all service manuals and operating instructions pertaining to the Development.
58. Use of Funds: Borrower agrees that Loan funds must be expended only in accordance with the statutes, regulations and rules governing the HOME Program and only for the purposes and activities and in the amount set forth in this Agreement.
59. Conditions of Disbursement: Loan funds must be disbursed for eligible costs based on the percentage of the Project completed less ten percent (10%) of any hard costs and in compliance with the Standard Agreement, unless the **City/County** releases retention in order to expend the Program Loan funds prior to HUD's regulatory expenditure deadline reflected in the Performance Milestones outlined in Exhibit B-1 of this Loan Agreement. The **City/County** is not obligated to make any disbursements or take any other action under the Loan Documents unless all of the following conditions precedent are satisfied at the time of such action:
- a. All Loan Documents have been duly executed in a form acceptable to the **City/County** and where necessary acknowledged and suitable for recordation;
 - b. Borrower has obtained all required permits and approvals required for the lawful construction and occupancy of the units;
 - c. Borrower has obtained all necessary insurance as described in Exhibit E;
 - d. There exists no Event of Default, as defined in this Agreement, or any other of the Loan Documents, or event, omission or failure of condition which would constitute a default or Event of Default after notice or lapse of time, or both that will not be cured concurrently with the funding of the Loan;
 - e. Borrower has obtained any other required permanent financing identified in Exhibit C (or equivalent, alternative financing approved by the **City/County**) and has adequate funding to operate the Development;
 - f. Borrower has obtained for the **City/County**, at Borrower's expense, the Title Policy insuring the Deed of Trust as described in Section F. 63 below;
 - g. Borrower has satisfied all requirements for receipt of the Loan in accordance with

- the Program Guidelines and the funds for the Loan are available to the **City/County** from the U.S. Department of Housing and Urban Development (“HUD”);
- h. Borrower has complied with all special conditions contained hereto in Exhibit F which are conditions precedent to the disbursement of funds; and
 - i. Borrower has completed, executed, and submitted to the **City/County** on a form provided by the **City/County** a request for disbursement of proceeds of the Loan including signing an assurance that items (a)-(h) above have been satisfied.
60. Disbursement of Funds: Except as may otherwise be provided in this Agreement or approved in writing by the **City/County**, all funds which are disbursed by the **City/County** must be disbursed in accordance with the Standard Agreement and Exhibit C herein.
61. Liens and Stop Notices: If a claim of lien is recorded affecting the Property or Development, or a bonded stop notice is served upon the **City/County** which affects the Loan or the Borrower's funds, Borrower must, within twenty (20) days of such recording or service or within five (5) days of the **City/County's** demand (whichever last occurs): (i) pay and fully discharge the same; (ii) effect the release thereof by recording or delivering to the **City/ County** a surety bond in sufficient form and amount, or otherwise; or (iii) provide the **City/County** with other assurance which the **City/County** deems, in its sole and absolute discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of the **City/County** from the effect of such lien or bonded stop notice. If Borrower has not received actual notice of the claim of lien or bonded stop notice prior to the **City/County's** demand, then the five (5) day period described above must be extended to twenty (20) days. Borrower must give the **City/County** prompt written notice of all lien claims affecting the Property or Development.
62. Conditions Precedent to Final Disbursement: The final disbursement of the proceeds of the Loan, including any retentions, must be made upon the satisfactory accomplishment of the following conditions:
- a. all of the conditions set forth in Paragraph 16 above have been met;
 - b. submission to the **City/County** of a Notice of Completion duly recorded by Borrower and a Certificate of Occupancy for the Development issued by the local government having jurisdiction over the Development, or any equivalent thereto acceptable to the **City/County**;
 - c. submission to the **City/County** of Properties comprehensive general liability and any special coverage insurance required in the Senior Regulatory Agreement;
 - d. submission to the **City/County** of all lien waivers required by the **City/County** or passage of the applicable statutory periods for filing mechanic and other similar liens;
 - e. issuance of a certificate or certificates, each in form and substance satisfactory to the **City/County**, executed by Borrower and the Architect, either jointly or severally,

each certifying that the Development has been completed in accordance with the Plans and Specifications;

- f. completion of the Development in accordance with Exhibit B and acceptance and approval of the Development by the City/County and by any person or governmental agency whose approval may be required;
- g. submission to the City/County, if so requested, of a cost audit for the Development satisfactory to the City/County;
- h. submission to the City/County of a Project Completion Report, on a form dictated by the Department of Housing & Urban Development, which is acceptable for entry into the federal disbursement and information system;
- i. submission to the City/County of "as-built" Plans and Specifications for each lot and house in the Development, legible, in good order and marked to record all changes made during construction and approval of those "as-built" Plans and Specifications by the City/County; and
- j. submission to City/County an endorsement to the Title Policy, obtained at borrower's expense, insuring the Deed of Trust as a lien prior to any statutory lien for labor or materials upon completion of construction.

63. Title Insurance: Borrower must procure from a title insurer acceptable to the City/County a 2021 (or other version acceptable to the City/County) ALTA Lender's Policy of Title Insurance (the "Title Policy") with all endorsements the City/County may reasonably require including but not limited to an ALTA 14 Endorsement, insuring the City/County of the validity and the priority of the lien of the Deed of Trust upon the Property and Development, in the principal amount of the Loan, subject only to matters of record approved by the City/County in writing. During the term of the Loan, Borrower must procure and deliver to the City/County, within five (5) working days of the City/County's request, other endorsements to the Title Policy as the City/County may reasonably require.

63. Record Maintenance and Retention: Borrower must maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures incurred in the construction of the Development for a period of not fewer than three years after the completion of the work.

64. Inspections:

- a. Authorized representatives and agents of the City/County must be permitted upon reasonable demand to inspect all work, materials, payrolls, personnel records, materials invoices, and other relevant data pertaining to the Development, and must have the right of entry and full access to the Property and the Development. Based on the findings during any inspection, the City/County may issue correction notices

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

or stop work orders. In all cases, the Borrower must correct any items noted in the correction notice or stop work order, and request a reinspection, prior to proceeding to the next phase of work.

- b. Except upon the Borrower's request for a reinspection under Section 15 above, the City/County does not have any affirmative duty to make any inspection. The City/County will not incur any liability for defects that are known or reasonably could have been known by the Borrower but not disclosed to the City/County. The City/County will not be liable for failing to inspect the Development if the Borrower reasonably knew or should have known of any defect without City/County inspection. Any inspection, investigation or review undertaken by the City/County will be solely to determine whether the Borrower is properly discharging its obligations to the City/County and is not to be relied upon as evidence of satisfying any other duty or obligation Borrower may have to any third party.
- c. The fact that inspection, investigation, or review of the design or construction of the Development has or has not been made by the City/County does not relieve the Borrower or the Contractor of any obligation that they have to inspect the Development and to otherwise comply with the terms of this Agreement.

65. City/County shall have the right to amend or otherwise revise this Agreement, should such modification be required by HUD, City/County or any applicable Federal statutes or regulations and Borrower shall approve any such required changes provided such changes do not materially change the economic terms described herein or expand Borrower's liability hereunder.

66. In the event that any of the HOME Program funds for any reason are terminated or withheld from City/County or otherwise not forthcoming, City/County shall have the right to revoke this Agreement to the extent of any such shortfall.

67. This Agreement shall only be modified by a written amendment signed by the Parties, or as otherwise set forth in the terms of the Agreement.

68. [If there is tax credit, use the following language: City/County acknowledges that the Development is being developed and operated so that one hundred percent (100%) of the units (other than unit occupied by resident manager) will qualify for low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") ("LIHTCs"). City/County agrees that nothing in the Loan Documents shall require Borrower to violate the requirements of Section 42 of the Code or the Treasury Regulations promulgated thereunder, or to operate the Development in a manner that would prevent one hundred percent (100%) of the units (other than the unit occupied by resident manager) from qualifying for LIHTCs. Without limiting the generality of the foregoing, City acknowledges that the household size appropriate for each unit shall be determined according to the LIHTC rules and regulations.] **[If there is no tax credit, use the following language:** Intentionally deleted.]

69. Events of Default: The occurrence of any of the following events constitutes an "Event of Default" hereunder following notice to the Borrower by the City/County, specifying (1) the applicable event, (2) the action required to prevent such event from becoming an Event of Default, and (3) a date not fewer than fifteen (15) days after the date the notice is mailed to Borrower, by which such action must be taken:

- a. Monetary. (i) Borrower's failure to pay when due any sums payable under the Note or any of the other Loan Documents; (ii) Borrower's failure or inability to secure anticipated permanent financing from parties other than the City/County as specified in Exhibit C (or equivalent alternative financing approved by the City/County), regardless of fault of the Borrower; or (iii) Borrower's failure to use or apply Loan funds in the manner specified by, or consistent with the purposes of this Agreement and as specified in Exhibits B
- b. Construction; Use. The following are Events of Default during Construction:
 - I. Borrower's failure to remedy to the City/County's satisfaction within ten (10) days of the City/County's written demand to do so:
 - A. Any material deviation in the Construction from the Scope and Distribution of Work that occurred without the City/County's approval; or
 - B. Use of defective workmanship or materials in constructing the Development;
 - II. The cessation of construction of the Development prior to completion for a continuous period of more than fifteen (15) days (unless caused by war, rebellion, insurrection, strike, lockout, boycott, pandemic, act of God, or other event beyond the Borrower's control as determined in the sole and absolute discretion of the City/County);
 - III. The prohibition, enjoining, or delay (in any manner) of the construction of, or the prohibition or enjoining (in any manner) of the leasing of, any Unit in the Development in accordance with the Loan Documents for a continuous period of more than thirty (30) days; or
 - IV. The curtailment in availability to the Development for a continuous period exceeding thirty (30) days of utilities or other public services necessary for construction or the full occupancy and utilization of the City/County.
- c. Performance of Obligations. Borrower's failure to perform any obligations under any of the Loan Documents, Borrower's failure to perform obligations under any other lender's loan documents, Borrower's failure to perform any obligations under a ground lease, including lease riders, or Borrower's failure to perform its obligations under this Agreement.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

- d. Representations and Warranties. If Borrower, in any of the Loan Documents, statements, certificates or schedules furnished to the **City/County**, conceals facts in any material respect or makes representations or warranties which are later proven to have been untrue; or (ii) if the Borrower's representations or warranties in any of the Loan Documents or any statement, certificates or schedules furnished by Borrower to the **City/County**, other than those regarding the financial condition of the Borrower have ceased to be true and have remained untrue for fifteen (15) days after notice of such change to Borrower by the **City/County**; or (iii) any adverse material change in the financial condition of Borrower or Sponsor from the financial condition represented to the **City/County** as of the date of this Loan Agreement.
- e. Voluntary Bankruptcy: Insolvency; Dissolution. Borrower's or any general partner of Borrower's (i) filing of a petition for relief under any state or federal law regarding bankruptcy, reorganization or other relief to debtors; (ii) filing any pleading in any involuntary proceeding under any state or federal law regarding bankruptcy, reorganization or other relief to debtors which admits the jurisdiction of the court or the petition's material allegations regarding the Borrower's insolvency; (iii) making a general assignment for the benefit of creditors; (iv) applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Borrower, any general partner of Borrower, or any of their respective properties; (v) inability or admission in writing of its inability to pay its debts as they are due; or (vi) death, if an individual; or the filing by Borrower or any general partner of Borrower of a petition seeking the liquidation or dissolution of Borrower or any general partner of Borrower or the commencement of any other procedure to liquidate or dissolve Borrower or any general partner of Borrower.
- f. Involuntary Bankruptcy: Borrower's or any general partner, member, or manager of Borrower's failure to effect a full dismissal of any involuntary (i) petition under any state or federal law regarding bankruptcy, reorganization or other relief to debtors; (ii) proceeding for the appointment of a receiver, trustee or liquidator for Borrower or any general partner of Borrower or all or a material part of the assets of the Borrower or any general partner, member, or manager of Borrower, or (iii) petition or proceeding under other state or federal law regarding bankruptcy, reorganization or other relief to debtors that is filed against Borrower or any general partner, member, or manager of Borrower or in any way restrains or limits Borrower or any general partner, member, or manager of Borrower or the **City/County** regarding the Loan, the Property or the Development, in any event prior to the earlier of the entry of any order granting relief sought in the involuntary petition or proceeding, or sixty (60) days after the date of filing of the petition or beginning of the proceeding.
- g. Liens; Attachment; Condemnation; Encroachments. (i) The filing of any claim of lien against the Property or the Development, or any part thereof, or service on the **City/County** of any bonded stop notice relating to the Loan and the continuance of the claim for lien or bonded stop notice for twenty (20) days after Borrower receives actual notice thereof without discharge, satisfaction or provision for payment being made as provided for in Paragraph 18 hereof; (ii) the condemnation, seizure or appropriation of, or the occurrence of an uninsured casualty with respect to, any

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXX**

Assessor's Identification Number: **xxx xxx xxxx**

Contract No.: **-HOME-**

material portion of the Property or the Development, such materiality to be determined by the City/County in its sole and absolute discretion; (iii) the sequestration or attachment of, assignment by Borrower for the benefit of its creditors of, or any levy or execution upon, the Property, the Development, other collateral provided by Borrower under any of the Loan Documents, monies in any account as may be required under any Loan Document for the deposit of operating income, or substantial portion of the other assets of Borrower, which is not released, expunged or dismissed prior to the earlier of sixty (60) days after sequestration, attachment or execution or the sale of the assets affected thereby; or (iv) any survey provided to the City/County upon a request for a disbursement of Loan funds shows encroachments which occurred without the written approval of the City/County which, in its sole and absolute discretion, the City/County requires to be removed or corrected, and the failure to remove or correct any such encroachments within thirty (30) days after receipt of the survey.

70. Cure Rights: Notwithstanding anything to the contrary herein, the City/County hereby agrees that any cure of any default offered by the limited partners of the Borrower will be accepted or rejected on the same basis as if cure was offered by the Borrower.

71. Remedies upon an Event of Default: Upon the happening of an Event of Default, the City/County's obligation to disburse proceeds of the Loan terminates and the City/County has the right to either apply all or any part of the remaining proceeds of the Loan to payment of accrued interest and principal due under any obligations of Borrower hereunder or terminate this Agreement. Upon the occurrence of an Event of Default, the City/County may also, in addition to all other rights and remedies available to the City/County hereunder or under the Loan Documents or applicable law, at its option, proceed with any or all remedies set forth herein:

- a. Terminate this Agreement;
- b. Call all sums advanced under the Note and all interest accrued thereon which remains unpaid, immediately due and payable, all without notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor, or other notice or demand of any kind or character;
- c. Completion of Project: The City/County must have the right to enter into possession of the Property and the Development, to take over and complete the Development in accordance with the Plans and Specifications, to discharge and replace the Contractor and to employ personnel to protect the Property and the Development and, for those purposes, to make disbursements of proceeds of the Loan. All such disbursements must be deemed to have been paid to the Borrower by the City/County, advanced under the Note and secured by the Deed of Trust. Any funds so advanced must be paid to the City/County by Borrower on demand, together with interest thereon at the rate of ten (10%) percent per annum from the date of expenditure. Any contracts entered into or indebtedness incurred upon the exercise

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxxx

Contract No.: -HOME-

of such right may be in the name of the Borrower, and for such purposes and the other purposes of this Paragraph 70 the **City/County** is hereby authorized and irrevocably appointed attorney-in-fact (said appointment being coupled with an interest) to enter into said contracts or agreements or contracts or agreements theretofore made by or on behalf of Borrower and to do any and all things necessary or proper to complete the work of construction, including the signing of Borrower's name to such contracts and documents as may be deemed necessary by counsel for the **City/County**.

In addition to the foregoing and not in limitation thereof, the Borrower hereby further empowers the **City/County** as said attorney as follows: a) To use any funds of the Borrower, including any balance which may be held in the construction disbursement account established hereunder and any funds which have not yet been disbursed for the purpose of completing the construction of the Development in the manner called for by the Plans and Specifications; b) to make such additions, changes and corrections in the Plans and Specifications as necessary or desirable to complete the Development in substantially the manner contemplated by the Plans and Specifications; c) to employ such contractors, subcontractors, agents, architects and inspectors as required for said purposes; d) to pay, settle or compromise all existing bills and claims which may be liens against the Property, the Development, or any part thereof, or as may be necessary or desirable for the completion of the construction of the Development, or for clearance of title; e) to execute all applications and certificates in the name of the Borrower which may be required by the construction contract or documents entered into in connection therewith; f) to prosecute and defend all actions and proceedings in connection with the Property or the construction of the Development and to take such action and require such performance necessary; and g) to do any and every act which the Borrower might do in its own behalf with regard to completion of the construction of the Development. In no event will the **City/County** be required to expend its own funds to complete the Development if the remaining Loan proceeds are insufficient, but the **City/County** may, at its option, advance such funds. Any funds so advanced must be advanced under the Note and secured by the Deed of Trust.

- d. Stoppage of Construction: Upon an Event of Default specified in Section 69, the **City/County** may order immediate stoppage of construction and demand that the condition be corrected, notwithstanding any right of Borrower under this Agreement to correct or insure against such defects. After issuance of such an order in writing, no further work must be done on the Development without the prior written consent of the **City/County** and until said condition has been fully corrected.
- e. Judgment for Specific Performance; Appointment of a Receiver: Upon the occurrence of an Event of Default, the **City/County** may seek an order for specific performance in any court of competent jurisdiction or may apply to any such court for the appointment of a receiver to take over and operate the Development in accordance with the terms of the Loan Documents, or for such other relief as may be appropriate.

72. Right to Contest: Borrower has the right to contest in good faith any claim, demand, levy,

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

or assessment that would constitute an Event of Default hereunder. Any such contest must be prosecuted diligently and, in a manner, not prejudicial to the City/County or the rights of the City/County hereunder. Upon demand by the City/County, Borrower must, within five days, make suitable assurances by depositing funds with the City/County, obtaining a bond, obtaining title insurance specific to the matter at issue, or making other assurances satisfactory to the City/County for the possibility that the contest will be unsuccessful. If assurance is made by deposit of funds with the City/County, the amount so deposited will be disbursed in accordance with the resolution of the contest.

73. Rights Cumulative, No Waiver: All the City/County's rights and remedies provided in the Loan Documents, granted by law or otherwise, are cumulative and, except as provided herein, may be exercised by the City/County at any time. No waiver shall be implied from any failure of the City/County to take, or any delay by the City/County in taking, action concerning any Event of Default or failure of condition under the Loan Documents, or from any previous waiver of any similar or unrelated Event of Default or failure of condition. Any waiver or approval under any of the Loan Documents must be in writing and shall be limited to its specific terms.
74. Attorneys' Fees; Enforcement: If any attorney, including the California Attorney General, is engaged by the City/County to enforce, construe or defend any provision of any of the Loan Documents, or as a consequence of any Event of Default not cured hereunder or default under any other Loan Document, with or without the filing of any legal action or proceeding, Borrower shall pay to the City/County, immediately upon demand, the amount of all attorneys' fees and costs incurred by the City/County and the State of California in connection therewith, together with interest thereon from the date of such demand at the rate of ten (10%) percent per annum.
74. Enforcement of the Construction Contract: The parties hereto agree that the City/County shall have, and is hereby assigned, the right of the Borrower to enforce the provisions of the Construction Contract and all documents related thereto in the event, as determined by the City/County, in its sole and absolute discretion, that the Borrower fails, refuses, or is otherwise unable to enforce them. The City/County shall notify the Borrower, in writing, of its determination to effect this assignment, specifying the reasons therefor, at least fifteen (15) days prior to the City/County's undertaking any such action.
75. Indemnification and Waiver:
- a. Indemnification: Borrower agrees to indemnify the City/County and its appointees, agents, employees, attorneys, consultants, officers, successors and assigns (collectively, the "HCD Indemnified Parties" or other "Indemnitee") against, and hold the HCD Indemnified Parties harmless from, any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees), of every name, kind and description, which are threatened or asserted against, or suffered or incurred by the City/County or any other indemnity as a direct or indirect consequence of: (i) the making of the Loan to the Borrower; (ii) Borrower's failure to fully and timely perform any obligations as and when required by this Agreement, or Borrowers or Sponsors failure to fully and timely perform their

obligations under any of the Loan Documents; (iii) any failure at any time of any of the Borrower's representations or warranties contain herein or in the other loan documents to be materially true and correct; (iv) any act or omission by Borrower, or by the contractor, subcontractor, material supplier, engineer, architect, manager or other person or entity with respect to the Property, or the design, construction, management, maintenance, repair or operations of the Development; or (v) the presence of any environmental conditions at the Development or on the Property. Borrower shall pay immediately upon the City/County's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of ten percent (10%) per annum. Borrower's duty to indemnify and hold the City/County and other indemnitees harmless hereunder includes the duties to defend as set forth in Section 2778 of the California Civil Code.

Borrower's indemnification, defense and hold harmless obligations with respect to any such matters shall be made by counsel reasonably acceptable to the City/County; shall commence immediately upon any such claim or matter being made, threatened or asserted against the City/County, any other Indemnitee, the Development or the Property without the necessity of the City/County or any other Indemnitee first contesting or defending the same, suffering or incurring any cost, loss or adverse disposition, or otherwise taking any other action; and shall apply to all such matters regardless of any action, failure or negligence, whether primary or secondary, of the City/County or any other Indemnitee, as applicable, it being the express intent of the parties that the indemnification, defense and other obligations of Borrower hereunder apply to all matters referenced herein except to the extent caused by the gross negligence or willful misconduct of the City/County or other applicable Indemnitee. In the event the Sponsor and/or Borrower fails or refuses to initiate or continue pursuing to completion any such defense or other obligations hereunder, the City/County or other Indemnitee shall be entitled to undertake, assume, and/or conclude the same, all at the Borrower's sole cost and expense, with counsel selected by the City/County or other Indemnitee in its sole and absolute discretion; and any and all costs, fees and expenses paid by the City/County or other Indemnitee in connection therewith, together with any and all costs, losses and expenses incurred by the City/County and/or any other Indemnitee for which it is entitled to indemnification, defense and being held harmless from under this subparagraph a., shall be added to the principal amount of the Loan, shall bear interest at the rate of ten percent (10%) per annum from the date incurred until paid and shall be immediately due and payable upon demand.

- b. Waiver and Release: The Borrower waives and releases any and all rights to any types of express or implied indemnity against the City/County and all other Indemnitees.
- c. Waiver. The Borrower expressly waives the protections of Section 1542 of the California Civil Code in relation to subparagraphs (a) and (b) above. Section 1542 relates to a general release and states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

76. Further Assurances: At the **City/County's** request and at Borrower's expense, Borrower shall execute, acknowledge, and deliver any other instrument and perform any other act necessary, desirable, or proper (as determined by the **City/County**) to carry out the purpose of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.
77. Notices: All written notices and demands under the Loan Documents shall be deemed served upon delivery or, if mailed, upon the date shown on the delivery receipt (or the date on which delivery was refused as shown on the delivery receipt) after deposit in United States Postal Service certified mail, postage prepaid, return receipt requested, or after delivery or attempted delivery by an express delivery service, and addressed to the address of Borrower or to the primary place of business or the mailing address of the **City/County**, as applicable, appearing below in the Borrower's signature block. Notice of change of address may be given in the same manner, provided Borrower's address shall be in the State of California or the state where Borrower's principal place of business is located, as represented to the **City/County** in the Loan Documents.
78. Displacement and Relocation: If the acquisition, construction, or development of the Development will result in the temporary or permanent displacement of occupants, the Borrower shall provide relocation payments and assistance in accordance with the applicable federal and state requirements.
79. Amendments and Additional Agreements: This Agreement shall not be altered or amended except in writing executed by all parties. The Borrower agrees that any other agreements entered into by the Borrower relating to the performance of this Agreement shall be subject to the written approval of the **City/County**.
80. Books and Records: Borrower shall maintain complete books of accounts and other records for the Development and for the use of the Loan proceeds; including, but not limited to, records of preliminary notices, lien releases, invoices and receipts, and certificates of insurance pertaining to the Contractor and each subcontractor; and the same shall be available for inspection and copying by the **City/County** upon reasonable notice to Borrower.
81. No Third Parties Benefited: No person other than the **City/County** and Borrower and their permitted successors and assigns shall have any right of action under any of the Loan Documents.
82. Authority to File Notices: At any time subsequent to the funding of the Loan, Borrower irrevocably appoints and authorizes the **City/County**, as Borrower's attorney-in-fact, which agency is coupled with an interest, to execute and record, on either of them, in the

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

City/County 's or Borrower's name, any notices, instruments or documents that the City/County deems appropriate to protect the City/County's interest under any of the Loan Documents.

83. Actions: At any time subsequent to the funding of the Loan, the City/County may commence, appear in or defend any action or proceeding purporting to affect the Property, Development, Loan Documents or the rights, duties or liabilities of Borrower or the City/County under the Loan Documents. In exercising this right, the City/County may incur or incur and pay reasonable costs and expenses including, without limit, attorneys' fees and court costs and Borrower agrees to pay all such expenses so incurred and reimburse the City/County for any expenses so paid.
84. Relationship of Parties: The relationship of Borrower and the City/County under the Loan Documents is, and shall at all times remain, solely that of borrower and lender. The City/County neither undertakes nor assumes any responsibility or duty to Borrower or to the Sponsor or to any third party with respect to the Property for the Development, except as expressly provided in the Loan Documents.
85. Assignment of Loan Documents: Neither Borrower nor Sponsor shall assign any interest, or any portion thereof, under any of the Loan Documents, or in any monies due or to become due thereunder, without the City/County 's prior written consent. Any such assignment made without the City/County's consent shall be void. Borrower recognizes that this is not an ordinary commercial loan and that the City/County would not make the Loan except in reliance on Borrower's and Sponsor's expertise and reputation, the City/County 's knowledge of Borrower and Sponsor, and the City/County 's understanding that this Development Agreement is more in the nature of an agreement involving personal services than a standard loan where the City/County would rely on security which already exists. In this instance, the work to be funded has not been performed at the time of Loan approval and the City/County is relying on Borrower's and Sponsor's expertise and prior experience to construct and develop the Development in accordance with the terms of the Loan Documents.
86. Restrictions on Transfer of Property, Project, and Interest in Borrower: Borrower shall not assign, sell, transfer, or convey any interest in the Borrower, the Property, or the Development, including, without limitation, any general partnership interest in the Borrower, except as provided for in this Agreement, without the City/County 's prior written consent. Borrower shall promptly notify the City/County of such transfers and shall provide the City/County with any documents respecting such transfer as the City/County may reasonably request; provided however that Borrower, if Borrower is a limited partnership, may sell, assign, transfer or convey limited partnership interests without the prior approval of the City/County.
87. Signs: Any signs placed on the Property during construction that identify the Sponsor of, or lenders to, the Development shall include the City/County as one of the entities providing financing to the Development. During the construction period the City/County may place one or more signs on the Property stating that it is providing financing for the Development.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

88. **City/County** 's Agents: The **City/County** may designate an agent or independent contractor to exercise any of the **City/County** 's rights under the Loan Documents. Any reference to the City/County in any of the Loan Documents shall include the **City/County**'s agents, employees, or independent contractors.
89. Severability: If any provision of the Loan Documents shall be determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, that portion shall be deemed severed from the Loan Documents and the remaining parts shall remain in full force as though the invalid, illegal, or unenforceable portion had never been part of the Loan Documents.
90. Heirs, Successors and Assigns: The terms of the Loan Documents shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties; provided however, that this Paragraph shall not waive the provisions of Section F. 87.
91. Time: Time is of the essence of each term of the Loan Documents.
92. Headings: All headings appearing in any of the Loan Documents are for convenience only and shall be disregarded in construing the Loan Documents.
93. Governing Law: The Loan Documents are governed by, and construed in accordance with, federal law and the laws of the State of California. To the extent State law is preempted by federal law, the federal law prevails. Borrower and all persons and entities in any manner obligated to the **City/County** under the Loan Documents consent to the jurisdiction of any federal or state court within the State of California having proper venue and also consent to service of process by any means authorized by California or federal law.
94. Integration; Interpretation: The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated herein and supersede all prior negotiations. No Loan Document shall be modified except by written instrument executed by all the parties thereto. Any reference in any of the Loan Documents to the Property or Development shall include all or any parts of the Property or Development. Any reference to the Loan Documents in any of the Loan Documents includes any amendments, renewals or extensions approved by the **City/County**. Any reference in this Development Agreement to the Loan Documents shall include all or any of the provisions of this Development Agreement and the Loan Documents unless otherwise specified.
95. Joint and Several Liability: The liability of all persons and entities who are in any manner obligated under any of the Loan Documents shall be joint and several.
96. Incorporation: This Agreement, together with the following Exhibits attached hereto and incorporated herein by reference, and the agreements referenced herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements with respect thereto.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxx**
Contract No.: **-HOME-**

- Exhibit A: Legal Description
- Exhibit B: Plans & Specifications/Scope & Distribution of Work
- Exhibit C: Sources and Uses of Funds
- Exhibit D: Construction Contract Addendum
- Exhibit E: Insurance Requirements
- Exhibit F: Special Conditions
- Exhibit G: Senior Regulatory Agreement
- Exhibit H: Junior Regulatory Agreement
- Exhibit I: Deed of Trust
- Exhibit J: Promissory Note

97. Equal Opportunity. During the construction of the Development, neither Borrower nor its agents or contractors shall discriminate on any unlawful basis including but not limited to race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the construction work.
98. Borrower shall not discriminate against any prospective tenant in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Development on the basis of race, religion, sex, age, disability, marital status, nor any other arbitrary factor in violation of any state, federal or local law governing discrimination in rental housing. Housing, which is intended to benefit, and is therefore limited to senior citizens, is permitted only with the prior approval of the selection criteria by **City/County**.
99. Any notice required or authorized under this Agreement shall be effective if, and only if, in writing and if, and only if, mailed, postage prepaid, by registered or certified mail, to the Party in question at the address shown below:

City:

City of X
ADDRESS
CITY, STATE ZIP
Attn: X

Borrower:

BORROWER NAME, a(n) ENTITY TYPE
c/o SPONSOR NAME ADDRESS
CITY, STATE ZIP
Attn: X

With a copy to Managing General Partner:

MGP NAME, a(n) ENTITY TYPE ADDRESS
CITY, STATE ZIP

City/County Loan Agreement
 Preparation Date: **MM/DD/2024**
 Development: **XXXXXX**
 Assessor's Identification Number: **xxx xxx xxxxx**
 Contract No.: **-HOME-**

Attn: X

With a copy to Borrower's Limited Partner(s):

LP NAME ADDRESS

CITY, STATE ZIP

Attn: X

With a copy to Borrower's Counsel:

COUNSEL'S NAME ADDRESS

CITY, STATE ZIP

Attn: X

100. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

101. City/County hereby agrees to consent to a re-subordination of the Loan to any refinance of the senior mortgage loan subject to compliance with the 24 CFR §92, as amended and the Department's Uniform Multifamily Regulations, as amended.

102. This Agreement may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one instrument.

[Signature Page Follows]

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

[Update Borrower and Sponsor’s signature block accordingly, provided below is a guidance only]

BORROWER:

Borrower Name

Entity Type

By: BORROWER NAME,
a(n) ENTITY TYPE Company General Partner

Its: MGP NAME,

By: MANAGER NAME,
a(n) ENTITY TYPE
Its: Sole Member/Manager

By: _____
Name, Title

SPONSOR:

SPONSOR NAME, A(N) ENTITY TYPE

By: Sponsor NAME,
a(n) ENTITY TYPE

Its: NAME,

CITY:
CITY OF X, A MUNICIPAL CORPORATION

By: _____

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

[Update Borrower and Sponsor’s signature block accordingly, provided below is a guidance only]

BORROWER:

BORROWER NAME,
A(N) ENTITY TYPE

By: AGP NAME, a(n) ENTITY TYPE
Its: Administrative General Partner

By: MANAGER NAME,
a(n) ENTITY TYPE
Its: Manager

By: _____

By: MGP NAME, A(n) ENTITY TYPE
Its: Managing General Partner

By: SOLE MEMBER AND MANAGER NAME
a(n) ENTITY TYPE
Its: Sole member and manager

By: _____

SPONSOR:
SPONSOR NAME, A(N) ENTITY TYPE
By: _____

CITY:

CITY OF X, A MUNICIPAL CORPORATION

By: _____

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor’s Identification Number: xxx xxx xxxx
Contract No.: -HOME-

**EXHIBIT A TO LOAN AGREEMENT
LEGAL DESCRIPTION**

Real property in the City of X, County of X, State of California, described as follows:

PARCEL NO. X:

DESCRIPTION.

APN: XXX-XXX-XXX-XXX

PARCEL NO. X:

DESCRIPTION.

APN: XXX-XXX-XXX-XXX

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT B TO LOAN AGREEMENT

Plans and Specifications/Scope and Distribution of Work

LOAN NUMBER: -HOME-

Construction Description

1. Construction Schedule

Commencement of Construction: Month, Day, Year

The Contractor must commence the work to be performed under this Agreement no later than ten (10) days after the Borrower issues it a Notice to Proceed. The Contractor must follow this construction schedule, which is incorporated and made a part of this Agreement. The construction schedule must have a date for the completion of the Project no later than twenty-four (24) months following the closing of the HOME Loan. This date may not be extended without the express written approval of the City/County. Immediately after the Project's completion, the Borrower must file, or cause to be filed, a Notice of Completion.

Certificate of Occupancy: On or about Month and Year

Occupancy by Eligible Households: ## Units

2. Description of Plans and Specifications

These plans and specifications dated Month, Day, Year, are approved by the City/County and are attached hereto this Agreement.

3. Contractor

 Contractor Company Name

 Contact Person, Title

 Company's Full Address

4. Architect

 Architecture Company Name

 Contact Person, Title

 Architecture's Full Address

 City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

**EXHIBIT B-1 TO LOAN AGREEMENT
Plans & Specifications/Scope & Distribution of Work**

LOAN NUMBER: [REDACTED]-HOME-[REDACTED]

Performance Milestones

Borrower must ensure the completion of the Performance Milestones set forth in the table below by their corresponding date in the column titled "Date to be Completed". Borrower may request from the [REDACTED] an extension of these timelines; however, the [REDACTED] has sole and absolute discretion to approve or deny such a request. This Performance Milestones schedule supersedes previous Performance Milestones on the project report and Standard Agreement between the [REDACTED] and the Borrower.

	Performance Milestone	Date to be Completed (if not applicable, indicate N/A)
1	Executed binding agreement between the Sponsor and developer of the Project detailing the terms and conditions of the Project development.	
2	Control of Project site(s)	
3	Completion of all necessary environmental clearances required under CEQA and if applicable, NEPA.	
4	Obtaining all necessary and discretionary public land use approvals.	
5	Obtaining all enforceable construction funding commitments.	
6	Obtaining all enforceable permanent funding commitments including substantially final permanent loan documents, Tax Credit syndication, and Bond loan documents.	
7	Submission of Final Construction Drawings and Specifications to the appropriate local building [REDACTED] or permitting authority.	
8	Commencement of construction.	
9	Construction completed and the filing of the Notice of Completion.	
10	Permanent closing date.	
11	Program funds fully disbursed.	

[REDACTED] Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxx
 Contract No.: [REDACTED]-HOME-[REDACTED]

12	HUD expenditure deadline	[enter HUD IDIS expenditure deadline]*
----	--------------------------	--

*The City/County may not disburse any funds subject to this Agreement beyond this date.

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

EXHIBIT B-2 TO LOAN AGREEMENT
Plans & Specifications/Scope & Distribution of Work

LOAN NUMBER: [REDACTED]-HOME-[REDACTED]

Construction Budget Schedule of Values

Insert Schedule of Values

DRAFT

EXHIBIT C TO LOAN AGREEMENT
Sources and Uses of Funds

LOAN NUMBER: [REDACTED]-HOME-[REDACTED]

Sources and Uses of Funds

1. Sources and Uses: Construction Period

Lien Position	Name of Lender	Amount
	Total	\$

2. Sources and Uses: Permanent Financing

Lien Position	Name of Lender	Amount
	Total	\$

3. Construction Budget Detail

<u>New Construction</u>	
<u>Site Work (hard costs)</u>	
<u>Structures (hard costs)</u>	
<u>General Requirements</u>	
<u>Contractor Overhead</u>	
<u>Contractor Profit</u>	
<u>Prevailing Wages</u>	
<u>General Liability Insurance</u>	
<u>Payment and Performance Bond</u>	

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxxx
 Contract No.: [REDACTED]-HOME-[REDACTED]

<u>Solar Panels</u>	
<u>Other: (Describe)</u>	
<u>Total</u>	<u>\$</u>

4. Estimated Disbursement Schedule:

Borrower must provide the **City/County** a construction closing draw request for reimbursement ten (10) weeks prior to close of escrow of construction financing, if needed. Borrower must provide the **City/County** a monthly draw request by the 10th of each month.

DRAFT

EXHIBIT D TO LOAN AGREEMENT
Construction Contract Addendum

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
HOME INVESTMENT PARTNERSHIPS PROGRAM CONSTRUCTION CONTRACT
ADDENDUM
CONTRACT [REDACTED]-HOME-[REDACTED]

This Construction Contract Addendum (the "Addendum") is made and entered into on [REDACTED], by and between [REDACTED], (the "Borrower"), [REDACTED] (the "Contractor"), and the City/County of X, a municipal corporation of the State of California ("City" or "County"). The Borrower must incorporate this Addendum in the construction contract between the Borrower and Contractor, and in the subcontractors' contracts.

RECITALS

1. The Borrower and Contractor have entered into an Agreement for Construction (the "Contract") dated [REDACTED] under which the Contractor has agreed to undertake the construction of a [REDACTED]-unit construction rental project (the "Project") owned, or to be owned, by the Borrower.
2. Borrower has received a loan commitment from the City/County to provide construction and permanent financing for the Project utilizing HOME Investment Partnerships Program funds administered by the City/County (the "HOME Loan") in accordance with the terms of a Development Agreement and Regulatory Agreement executed by and between the Borrower and City/County.
3. The City/County is willing to make the HOME Loan provided that, among other things, Borrower and Contractor enter into this Addendum, and Borrower and Contractor, in recognition of the mutual benefits that will be derived from the HOME Loan, have agreed to enter into this Addendum which modifies and adds to the terms of the Agreement.
4. The City/County further desires that it and any other Lenders (as defined below) be third party beneficiaries to the Contract (as hereinafter defined), including this Addendum.
5. The City/County, other Lenders and/or the Borrower may have entered into other agreements affecting the financing of the Project and specifying rights and responsibilities affecting assignment of the Project in the event of default.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce the City/County to make the HOME Loan, it is hereby declared, understood and agreed as follows:

A. Definitions. As used in this Addendum, the following terms shall have the meanings specified below.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: [REDACTED]-HOME-[REDACTED]

- 1) "Completion Date" shall refer to the date on which the Certification of Completion is issued by the City/County. This certificate shall be issued following final inspection of the Project by the City/County, architect, and other Lenders to verify that the Project is complete, including any and all final punch-list items.
- 2) "Construction" or "construction" shall refer to the work being performed by Contractor pursuant to the Agreement, whether such work is for the new construction or performance of rehabilitation work.
- 3) "Construction Lenders" shall refer to all entities that are providing financing to the Project including, particularly, the City/County.
- 4) "HOME Closing" shall refer to the closing escrow, held prior to the start of any construction on site, at which construction financing and other Project-related documents are signed.
- 5) "Lenders" shall refer to all entities that are providing construction or permanent financing to the Project.
- 6) "Loan Documents" shall refer to all agreements entered into by the Borrower relative to the provision to the Borrower of construction or permanent financing for the Project.
- 7) "Plans and Specifications" shall refer to the final plans and specifications that are approved at or before the HOME Closing by the Contractor, Borrower, City/County, the Borrower's Architect, and other Lenders requiring such approval.

B. Order of Precedence of the Contract Documents. The following listed documents constitute the entire contract between the parties for the construction of the Project and are collectively referred to herein as the "Contract" or "the Construction Contract". In any interpretation of the terms or provisions of this Contract, or in the case of any inconsistency or conflict in such terms or provisions, the following documents shall be construed to govern the interpretation or inconsistency by giving precedence to the effect of the terms and provisions of such documents in the following order of priority:

- 1) This Addendum.
- 2) The Plans and Specifications.
- 3) The Agreement and, where specifically included.
- 4) The Standard Form of Agreement Between Owner and Architect, AIA Document B101.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

- 5) The Standard Form of Agreement Between Owner and Contractor, AIA Document A102.
- 6) The General Conditions of the Contract for Construction, AIA Document A201.

C. Change Orders.

- 1) All changes in the approved Plans and Specifications or the approved Scope and Distribution of Work ("Change Orders") require the prior written consent of the **City/County**. Change Orders must be submitted on a form acceptable to the **City/County**, signed by the Borrower and its general contractor and such other parties as may be required by the **City/County**, Contractor's surety, or other entity with authority to approve Change Orders. Change Orders must be accompanied by working drawings, an itemized cost statement, a written narrative of the proposed change and the reasons therefore, and such supporting documentation as the **City/County** may reasonably require. Borrower acknowledges that this review and approval process may result in delay.
- 2) Change Orders requesting cost increases shall be approved only to the extent that they reflect approved changes in the scope of work or the Plans and Specifications. Cost changes arising from unanticipated increased cost of supplies, material, labor, equipment, or subcontracting, and not reflecting a change in the scope of work or the Plans and Specifications will not be approved by the **City/County**.
- 3) Change Orders which result in an approved cost increase may include a percentage increment for Contractor's profit and general overhead. The percentage shall be limited to the percent specified in the Agreement for Contractor's profit and general overhead and it may be applied only to approved costs for supplies, material, labor, equipment, and subcontracting. The combined amount of overhead and profit for both Contractor and any subcontractor shall not exceed a total of twenty percent (20%).

6. Compensation of the Contractor. Compensation to the Contractor for completing the terms of this Addendum shall be included as part of the compensation specified in the Agreement.

7. Time for Performance. The Contractor must commence the work to be performed under this Agreement no later than ten (10) days after the Borrower issues it a Notice to Proceed. The Contractor must follow the construction schedule in Exhibit B, which is made a part of this Agreement. The construction schedule must have a date for the completion of the Project no later than twenty-four (24) months following the closing of the HOME Loan. This date may not be extended without the express written approval of the **City/County**. Immediately after the Project's completion, the Borrower must file, or cause to be filed, a Notice of Completion.

8. Delay. The Contractor shall promptly notify both the Borrower and the **City/County** in writing of any event causing delay or interruption of construction, or the timely completion of construction. The notice shall specify the particular work delayed and the cause and period of each delay.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

9. Preconstruction Conference. Contractor and Borrower agree to attend a preconstruction conference with representatives of the **City/County**, prior to the commencement of construction to discuss HOME Program construction requirements and other matters relating to the construction of the Project. The **City/County** may choose to waive this conference. The conference will include the following, but not limited to:

- A. All construction details;
- B. Time frame of Project;
- C. Project supervision;
- D. Coordination with City or County officials;
- E. On-site inspections;
- F. Progress schedules and reports;
- G. Payrolls, payments to Contractors;
- H. Contract change orders;
- I. All Bonds and Certificate of Insurance Requirements;
- J. Safety;
- K. Federal labor requirements:
 - 1) Federal Labor Standards;
 - 2) Contract Work Hours and Safety Standards Act – Overtime Compensation;
 - 3) Contractors must submit certified copies of weekly payrolls to the assigned Project manager for verification that appropriate wage rates were paid;
 - 4) Section 3 requirements: Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons;

- 5) Prior to progress payments being made the labor compliance coordinator will review all such payrolls upon receipt, sign and date the payroll following verification, and maintain such payrolls on file for review and monitoring purposes;
- 6) The process of withholding progress payments;
- 7) How disputes Concerning Labor Standards will be resolved;
- 8) Compliance with Copland Act (Anti-Kickback) regulations; and
- 9) Required Construction Contract Addendum in the subcontractors contracts;

- L. The construction sign posting requirements;
- M. Other items pertinent to the Project (e.g., State Prevailing Wage requirements);
- N. Monthly Status Reports (Department form);
- O. Minutes of the preconstruction conference that document the discussion of federal regulations must be maintained in the Project files;
- P. Permanent Financing preparation;
- Q. Project closeout report; and
- R. Professional pictures of the completed Project.

10. Notice to Proceed. The Contractor shall not commence work until the Borrower has issued a Notice to Proceed. The Borrower shall not issue a Notice to Proceed until so authorized by the **City/County** which shall be no sooner than the execution of all Loan Documents and all other Project-related documents by all authorized parties at the HOME Closing. The **City/County** may elect to waive its right to this authorization.

11. Contractor's Assurance of Completion. The Contractor shall provide security to assure completion of the Project by furnishing the Borrower and Construction Lenders with Performance and Payment Bonds, or a Letter of Credit, which shall remain in effect during the entire term of the Contract, and which shall be in a form and from an issuer which is acceptable to the Borrower, Construction Lenders, and **City/County**. The Performance Bond shall be in an amount at least equal to one hundred percent (100%) of the approved construction costs included in the Contract to provide security for the faithful performance of the contract including a warranty period of at least 12 months after completion. The Payment Bond shall be in an amount at least equal to one hundred percent (100%) of the approved construction costs included in the Contract to provide security for the payment of all persons performing labor on the Project and furnishing materials in connection with the Contract. If a Letter of Credit is used, it shall be in an amount equal to at least 20% of the

approved construction costs included in the Contract. The **City/County** and all other Lenders shall be named as additional obligees in the Bonds or Letter of Credit.

12. Contractor's Warranty. The Contractor warrants that:

- A. The construction cost set forth in the Contract provides that construction of the Project will be in accordance with the Plans and Specifications;
- B. The Project will be constructed in accordance with the Plans and Specifications and Contractor agrees to make, free of additional charge, any alterations necessary to provide compliance with the Plans and Specifications, as qualified in the Contract; and
- C. The Project will be constructed free of defects and agrees to repair, free of charge, any defects from construction performed under this Contract which arise in the first year following the Completion Date. The Contractor shall provide security for this warranty in the form of a Performance Bond as discussed in paragraph 9 above or in the form of a Completion Assurance Agreement, approved by the **City/County** and entered into by the Contractor, Borrower and **City/County**.
- D. Borrower shall require the Project architect, engineer, and/or local building **City/County** to certify that the Plans and Specifications comply with all applicable local, state and federal laws, regulations, building codes and standards and the housing quality standards, including the federal NHTF property standards for new construction projects at 24 CFR 93.301(a), and/or rehabilitation projects at 24 CFR 93.301(b), which are attached hereto and made a part hereof (collectively referred to hereafter as the "Building Standards"). In addition:
- E. Borrower hereby covenants that the Project will be constructed in accordance with the Building Standards now or hereafter shall be maintained in accordance with 24 CFR 93.301(e) and agrees to make any alterations necessary to bring the Project into compliance with the Building Standards.

13. Purchase of Materials Under Title Retention Agreement. Neither the Borrower nor Contractor shall purchase or install or permit to be purchased or installed any materials, equipment, fixtures, or other part of the Project under any agreements or arrangements wherein the supplier or seller reserves or purports to reserve a lien or security interest, or the right to remove or to repossess any such items or to consider them personal property after their incorporation into the Project, unless authorized in writing by the **City/County**.

14. Material Warranties. The Contractor shall deliver to the Borrower all Project warranty documents, including warranties on appliances and on building components (such as roof and siding) etc. The Borrower shall furnish copies of all said documents along with all service manuals and operating instructions to the **City/County** prior to the issuance of the **City/County**'s Certificate of Completion.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

15. Right of Entry and Inspection.

A. At all times during the term of this Contract, the Lenders and their agents shall have the right of entry and free access to the Project and the right to inspect all work done and materials, equipment and fixtures furnished, installed, or stored in or about the Project and all Project records related to performance of the terms of this Contract. Based on the findings during any inspection, the City/County may issue Correction Notices, or Stop Work Orders. In all cases, the Contractor shall correct any items noted in the Correction Notice or Stop Work Order, and request a reinspection, prior to proceeding to the next phase of work. The Contractor shall bear full responsibility for removing/replacing any work necessary to bring the Project into compliance with the Plans and Specifications. The Borrower shall reserve the right to halt future payments to the Contractor pending such corrections.

B. The City/County shall not have any affirmative duty to make any such inspection and shall not incur any liability for failing to do so. Once having undertaken any such inspection, the City/County shall not incur any liability for failing to do so properly or for failing to complete the same. The fact that such inspection may or may not have been made by the City/County shall not relieve the Borrower or the Contractor of any obligation that they may otherwise have to inspect the Project.

16. Agreement to Make Payments. the Contractor agrees to pay all amounts when due for labor, work performed under subcontract, or materials, supplies and equipment provided to the Project.

17. Insurance. The Contractor shall carry insurance, approved by the City/County, during the construction phase to include:

A. Comprehensive General Liability Insurance at a minimum of \$1 million per occurrence, including: premises/operation, products/completed operations hazard, contractual insurance, independent contractor's protection, personal injury, and broad form property damage;

B. Comprehensive Automotive Liability, including bodily injury at a minimum of \$1 million per occurrence and per person and property damage at \$1 million;

C. Worker's Compensation and Employer's Liability Insurance to the extent required by State Law;

D. Builder's Risk Insurance to be carried by Borrower -- All Risk Builder's 100% Completed Value Non-Reporting Form;

E. The General Contractor as the Named Insured;

F. The Borrower and the City/County and its officers, agents, employees and servants as Additional Insureds;

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

G. The **City/County** named as loss payee through the standard Lender's Loss Payee Endorsement Form;

H. A clause requiring that the **City/County** be notified 30 days prior to cancellation or lapse of coverage of the insurance policy;

I. The **City/County** named as Certificate Holder on the insurance certificates with valid policy numbers, effective dates and signed by an authorized representative as follows:

Name of City/County
ATTN:
ADDRESS:
CITY, STATE ZIP CODE
Re: (Contract #)

J. A clause requiring that The **City/County** be notified prior to the Contractor making a claim;

K. The same evidence of insurance for the subcontractors as indicated above except that Builder's Risk need not be provided, the Borrower and the **City/County** do not need to be named as additional insured and the minimum amount of coverage must be \$500,000.

L. Following the completion of the Project and execution of the Certificate of Occupancy by the local jurisdiction, the Borrower must comply with the **City/County**'s insurance requirements for ongoing operation of the Project during the term of the Regulatory Agreement.

18. Subcontracting.

A. Contractor must not subcontract any of the work to be performed hereunder without the prior written consent of the Borrower and Lenders.

B. Contractor must subcontract only with subcontractors that are licensed and in good standing in California and are not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

C. Contractor must include in any subcontract, provisions requiring the subcontractor to:

- 1) perform work in accordance with the Building Standards;
- 2) to comply with Paragraph 19 of this Addendum;
- 3) comply with the applicable Nondiscrimination and Equal Opportunity Requirements described in Paragraph 18 hereof;

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor's Identification Number: **xxx xxx xxxxx**

Contract No.: **-HOME-**

4) maintain at least the minimum state-required Workers' Compensation Insurance for those employees who will perform work under the subcontract; and

5) maintain, if so required by law, unemployment insurance, disability insurance, and liability insurance in an amount to be determined by the City/County which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the contractor or any subcontractor in performing the work under the subcontract or any part of it.

19. Hazardous Materials. Where studies have disclosed the presence of hazardous materials, the Contractor must be required to remove or abate those hazardous materials in a manner consistent with the plan prepared for this purpose and included in the Plans and Specifications. In addition, the Contractor must be required to notify the Borrower, and appropriate governmental authorities, of the discovery of any hazardous materials found on the site during construction work within 24 hours after discovery. All work on affected areas shall be ceased immediately, and not resumed unless done in accordance with all applicable occupational, health and safety standards.

20. Nondiscrimination and Equal Employment Opportunity.

A. Contractor must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition (including HIV and AIDS), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, abortion decision-making, military or veteran status or denial of family care leave. Contractor must ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Contractor shall also comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations are incorporated into this Addendum by reference and made a part hereof as if set forth in full. Contractor must give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

B. Contractor must provide an equal opportunity for employment to all persons regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age or sexual orientation as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975, and all implementing regulations, and the Fair Housing Amendments Act of 1988 (42 USC 3601-19) and implementing regulations.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

C. Contractor must include in every subcontract for construction exceeding \$10,000, The Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (federal Executive Order 11246), including the Standard Equal Employment Opportunity Construction Contract Specifications.

D. Contractor must include the nondiscrimination and compliance provisions of subparagraphs (a), (b) and (c) of this Paragraph 18 in all subcontracts to perform work under the Agreement.

21. Labor Standards. Contractor agrees to comply with state prevailing wage law, as set forth in Labor Code Section 1720, et seq., when required as a result of the use of **City/County** funds for construction financing or for other reasons. Contractor must comply with all applicable provisions of the Prevailing Wage Payment Plan prepared by Borrower and approved by the **City/County**.

22. Hold Harmless. The Contractor and Borrower must indemnify, defend and save harmless the **City/County**, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the construction of the Project and from any claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of the construction.

23. Assignment.

A. No part of this Contract or any obligations hereunder may be assigned by the Contractor without the prior written consent of all Lenders and the Borrower except as provided herein.

B. The Borrower hereby expressly assigns to the **City/County** the right to exercise any and all of the Borrower's rights and remedies pursuant to this Contract. The Contractor understands that this Assignment provides that the **City/County** may undertake the completion of the Project and the Contractor agrees to perform the work required under this Contract if the Borrower defaults and the Construction Lender or **City/County** undertakes to cause such work to be performed.

C. The Contractor hereby expressly assigns all construction warranties of the Contractor on the Project to the Construction Lenders. The Borrower hereby consents to this Assignment.

D. The Assignments included in this Agreement must become effective upon the Borrower's default under any of the Loan Documents and notice thereof by the **City/County** to the Borrower. Until such notice, the Borrower remains liable for and must fulfill all its covenants, terms, conditions, agreements and obligations under this Contract and related

documents. Failure of the **City/County** to exercise its rights pursuant to these Assignments in the Event of Default by the Borrower is not a waiver of such rights.

- 24. Remedies. In the event of the failure of any of the parties hereto to honor the rights of the **City/County** as provided in this Contract, the **City/County** has, in addition to any other remedy provided for in law or in equity, the right to cancel the loan commitment made to the Borrower for the Project.
- 25. Attorneys' Fees. In any action to enforce this Agreement, the prevailing party is entitled to an award of such reasonable attorney's fees, expenses and costs as may be fixed by the court.
- 26. Amendments. This Agreement must not be amended without the written agreement of the parties hereto.
- 27. Third Party Beneficiaries. Borrower and Contractor agree that all Lenders on the Project, including the **City/County**, must be and remain third party beneficiaries to the Contract.
- 28. Notice. Notices and other communications required by this Addendum must be delivered by messenger to the addresses provided below or sent by U.S Postal Service certified mail, return receipt requested, postage prepaid, addressed as follows:

Name of City/County
Program Name
STREET ADDRESS
CITY, STATE/ ZIP CODE
ATTN:
or:
STREET ADDRESS
CITY, STATE/ ZIP CODE
ATTN:

To Borrower: _____

To Contractor: _____

These addresses may be changed by a notice given in the same manner. Notices shall be effective on receipt.

29. Special Conditions. The following special conditions, if any, are made a part of this Addendum.

[The remainder of this page has been intentionally left blank.]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

IN WITNESS WHEREOF, the parties hereto have executed this Addendum and it shall be effective on the date first set forth above.

BORROWER:

[Signatures must be acknowledged.]

[Signatures continue on the following page. Remainder of this page is blank.]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

CONTRACTOR:

[Signatures must be acknowledged.]

[Signatures continue on the following page. Remainder of this page is blank.]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

CITY/COUNTY:
Name of City/ County
Program Name
STREET ADDRESS
CITY, STATE/ZIP CODE

By: _____
Name, TITLE

[Signatures must be acknowledged.]

DRAFT

Attachments: Construction Work Schedule, Detailed Construction Cost Estimate and Housing Quality Standards

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

EXHIBIT E TO LOAN AGREEMENT

Insurance Requirements

Submit a certificate of insurance (or other evidence) that acknowledges the City/County's security interest and has appropriate coverage in force for property and liability exposures as follows:

1. GENERAL REQUIREMENTS:

- A. Copy of its commercial general liability policy and its excess policy or binder until such time as a policy is available, including the declarations page, applicable endorsements, riders, and other modifications in effect at the time of contract execution. Standard ISO form No. CG 0001 or similar exclusions are allowed if not inconsistent with Section 2, "Indemnification and Insurance." Allowance of additional exclusions is at the discretion of the City/County.
- B. Certificate of insurance showing all other required coverages. Certificates of insurance, as evidence of required insurance for the auto liability and any other required policy, must set forth deductible amounts applicable to each policy and all exclusions that are added by endorsement to each policy. The evidence of insurance must provide that no cancellation, lapse, or reduction of coverage will occur without 10 days prior written notice to the City/County.
- C. A declaration under the penalty of perjury by a certified public accountant certifying the accountant has applied Generally Accepted Accounting Principles (GAAP) guidelines confirming the Recipient has sufficient funds and resources to cover any self-insured retentions if the self-insured retention is \$50,000 or higher.

If the Recipient uses any form of self-insurance for workers compensation in lieu of an insurance policy, it must submit a certificate of consent to self-insure in accordance with the provisions of Section 3700 of the Labor Code.

2. INDEMNIFICATION AND INSURANCE:

The Contractor's obligations regarding indemnification of the State of California (the "State"), including the City/County, and the requirements for insurance shall conform to the provisions in Section 2(a), "Indemnification," and Section 2(b), "Insurance," of Section 2.

A. INDEMNIFICATION:

- 1) The Contractor must defend, indemnify, and save harmless the State, including its officers, employees, and agents (excluding agents who are design professionals) from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or in equity arising out of or in connection with the Contractor's performance of this contract for:

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

- 2) Bodily injury including, but not limited to, bodily injury, sickness or disease, emotional injury, or death to persons, including, but not limited to, the public, any employees or agents of the Contractor, the State, or any other contractor; and
- 3) Damage to property of anyone including loss of use thereof; caused or alleged to be caused in whole or in part by any negligent or otherwise legally actionable act or omission of the Contractor or anyone directly or indirectly employed by the Contractor or anyone for whose acts the Contractor may be liable.
- 4) Except as otherwise provided by law, these requirements apply regardless of the existence or degree of fault of the State. The Contractor is not obligated to indemnify the State for claims arising from conduct delineated in Civil Code Section 2782 or for claims arising from any defective or substandard condition of the highway that existed at or before the start of work, unless this condition has been changed by the work or the scope of the work requires the Contractor to maintain existing highway facilities and the claim arises from the Contractor's failure to maintain. The Contractor's defense and indemnity obligation must extend to Claims arising after the work is completed and accepted if the claims are directly related to alleged acts or omissions by the Contractor that occurred during the course of the work. State inspection is not a waiver of full compliance with these requirements.
- 5) The Contractor's obligation to defend and indemnify must not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines that the Contractor is not liable. The Contractor must respond within 30 days to the tender of any claim for defense and indemnity by the State, unless this time has been extended by the State. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, the City/County may withhold such funds the State reasonably considers necessary for its defense and indemnity until disposition has been made of the claim or until the Contractor accepts or rejects the tender of defense, whichever occurs first.
- 6) With respect to third-party claims against the Contractor, the Contractor waives all rights of any type to express or implied indemnity against the State, its officers, employees, or agents (excluding agents who are design professionals).
- 7) Nothing in the Contract is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of these indemnification specifications.

B. INSURANCE:

Nothing in the contract is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of these insurance specifications.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

C. CASUALTY INSURANCE:

- 1) The Contractor must procure and maintain insurance on all of its operations with companies acceptable to the State as follows:
 - a) The Contractor must keep all insurance in full force and effect from the beginning of the work through contract acceptance.
 - b) All insurance must be with an insurance company with a rating from A.M. Best Financial Strength Rating of A- or better and a Financial Size Category of VII or better.
 - c) The Contractor must maintain completed operations coverage with a carrier acceptable to the State through the expiration of the patent deficiency in construction statute of repose set forth in Code of Civil Procedure Section 337.1.

D. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

1. In accordance with Labor Code Section 1860, the Contractor must secure the payment of worker's compensation in accordance with Labor Code Section 3700.
2. In accordance with Labor Code Section 1861, the Contractor must submit to the City/County the following certification before performing the work:
 - a) I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.
3. Contract execution constitutes certification submittal.
4. The Contractor shall provide Employer's Liability Insurance in amounts not less than:
 - a) \$1,000,000 for each accident for bodily injury by accident
 - b) \$1,000,000 policy limit for bodily injury by disease
 - c) \$1,000,000 for each employee for bodily injury by disease
5. If there is an exposure of injury to the Contractor's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage must be included for such injuries or claims.

E. GENERAL LIABILITY INSURANCE:

1. The Contractor must carry General Liability and Umbrella or Excess Liability Insurance covering all operations by or on behalf of the Contractor providing insurance for bodily injury liability and property damage liability for the following limits and including coverage for:

- a) Premises, operations, and mobile equipment;
- b) Products and completed operations;
- c) Broad form property damage (including completed operations);
- d) Explosion, collapse, and underground hazards;
- e) Personal injury; and
- f) Contractual liability.

2. The Contractor must not require certified Small Business subcontractors to carry Liability Insurance that exceeds the limits in Section 2(f)(1), "Liability Limits/Additional Insureds," of these specifications. The maximum required Liability Insurance limits in Section 2(f)(1), "Liability Limits/Additional Insureds," of these specifications shall apply to certified Small Business subcontractors for work performed on the project, regardless of tier. The provisions of Section 2(f)(1), "Liability Limits/Additional Insureds," must be included in all subcontracts for all tiers.

F. LIABILITY LIMITS/ADDITIONAL INSUREDS:

1. The limits of liability shall be at least the amounts shown in the following table:

For Each Occurrence ¹	Aggregate for Products/ Completed Operation	General Aggregate ²	Umbrella or Excess Liability ³
\$1,000,000	\$2,000,000	\$2,000,000	\$5,000,000
1. Combined single limit for bodily injury and property damage. 2. This limit will apply separately to the Contractor's work under this contract. 3. The umbrella or excess policy must contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.			

2. The State, including its officers, directors, agents (excluding agents who are design professionals), and employees, must be named as additional insureds under the General Liability and Umbrella Liability Policies with respect to liability arising out of or connected with work or operations performed by or on behalf of the Contractor under this contract. Coverage for such additional insureds does not extend to liability:

a) Arising from any defective or substandard condition of the roadway which existed at or before the time the Contractor started work, unless such condition has been changed by the work or the scope of the work requires the Contractor to maintain existing roadway facilities and the claim arises from the Contractor's failure to maintain;

b) For claims occurring after the work is completed and accepted unless these claims are directly related to alleged acts or omissions of the Contractor that occurred during the course of the work; or

c) To the extent prohibited by Insurance Code Section 11580.04.

3. Additional insured coverage must be provided by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010, as published by the Insurance Services Office (ISO), or other form designated by the City/County.

G. CONTRACTOR'S INSURANCE POLICY IS PRIMARY:

The policy must stipulate that the insurance afforded the additional insureds applies as primary insurance. Any other insurance or self insurance maintained by the State is excess only and must not be called upon to contribute with this insurance.

H. AUTOMOBILE LIABILITY INSURANCE:

The Contractor must carry automobile liability insurance, including coverage for all owned, hired, and non-owned automobiles. The primary limits of liability must be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. The umbrella or excess liability coverage required under Section 2 (f)(1) also applies to automobile liability.

I. POLICY FORMS, ENDORSEMENTS, AND CERTIFICATES:

The Contractor must provide its General Liability Insurance under Commercial General Liability policy form No. CG0001 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form No. CG0001.

J. DEDUCTIBLES:

The State may expressly allow deductible clauses, which it does not consider excessive, overly broad, or harmful to the interests of the State. Regardless of the allowance of exclusions or deductions by the State, the Contractor is responsible for any deductible amount and must warrant that the coverage provided to the State is in accordance with Section 2(b), "Insurance."

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

K. ENFORCEMENT:

1. The **City/County** may assure the Contractor's compliance with its insurance obligations. Ten days before an insurance policy lapses or is canceled during the contract period, the Contractor must submit to the **City/County** evidence of renewal or replacement of the policy.
2. If the Contractor fails to maintain any required insurance coverage, the **City/County** may maintain this coverage and withhold or charge the expense to the Contractor or terminate the Contractor's control of the work.
3. The Contractor is not relieved of its duties and responsibilities to indemnify, defend, and hold harmless the State, its officers, agents, and employees by the **City/County**'s acceptance of insurance policies and certificates.
4. Minimum insurance coverage amounts do not relieve the Contractor for liability in excess of such coverage, nor do they preclude the State from taking other actions available to it, including the withholding of funds under this contract.

[The remainder of this page has been intentionally left blank.]

EXHIBIT F TO LOAN AGREEMENT

Special Conditions

1. Enter Special Conditions here. Example: Prior to demolition of the structures currently present on the site, all lead-based paint must be removed or encapsulated as required to comply with federal lead safety regulations. In addition, all asbestos-containing material shall be removed or encapsulated in compliance with federal and state regulations.
2. Enter any outstanding environmental requirements in here if not yet addressed.

DRAFT

EXHIBIT G TO LOAN AGREEMENT
Senior Regulatory Agreement

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

RECORDING REQUESTED BY:

City/County of X

WHEN RECORDED MAIL TO:

City/County of X ADDRESS

CITY, STATE ZIP

(2) CITY/COUNTY OF X

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

(3) SENIOR REGULATORY AGREEMENT

LOAN NUMBER **XX-HOME-XXXXX**

(Senior HOME Restrictions)

This Senior Regulatory Agreement (the "Agreement") dated _____, **20**, for reference purposes only, is made and entered into by and between _____, a _____ (the "Borrower"), and the **City/County of XXXXXXXX**, a municipal corporation of the State of California (the "**City/County**").

RECITALS:

- A. Borrower has applied to the **City/County** for a loan (the "HOME Loan") for the development of a Rental Housing Development located at _____, California, consisting of a total of **##** rental units (the "Development"), of which **##** HOME Assisted Units are to be occupied by Low-income families as provided in this Agreement. The Development includes the real property described in Exhibit A hereto (the "Property"). The **City/County** has conditionally agreed to provide the HOME Loan under 24 C.F.R. Part 92, as amended, Health and Safety Code § 50676, HOME Investment Partnerships Program ("HOME") Allocation Plan and Substantial Amendment to the AP and Consolidated Plan, and the Uniform Multifamily Regulations at 25 C.C.R. § 8300 et seq., (collectively referred to as the "HOME Regulations"). The obligations imposed on the Borrower by this Agreement, the HOME Regulations, and the **City/County's** policies and procedures are collectively referred to herein as the "Program Requirements."
- B. Borrower and the City/County have entered into a Loan Agreement, dated _____, 20____, regarding the Development and governing the terms of the HOME Loan (the "Loan Agreement").
- C. Also as required by the City/County and in addition to the Loan Agreement, Borrower has executed or will execute each of the following documents in form approved by the

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor's Identification Number: **xxx xxx xxxx**

Contract No.: **-HOME-**

City/County:

1. A promissory note evidencing the HOME Loan specifying, inter alia, the principal amount thereof, the interest accruing thereon and the terms of repayment thereof (the "Note").
 2. A deed of trust, assignment of rents, security agreement, and fixture filing securing the Note and naming the City/County as beneficiary and the Borrower as trustor and recorded or to be recorded against the Property (the "Deed of Trust"). The Deed of Trust must have such priority and be subject only to such matters of record as may be approved in writing by the Department.
 3. The City/County's customary regulatory agreement regulating and restricting the occupancy, rents, operation, ownership and management of the Development and Property in compliance with Program Requirements, in favor of the City/County, dated on or about even date herewith, to be recorded against the Property and the Borrower's respective interests therein (the "Junior Regulatory Agreement"). This Agreement and the Junior Regulatory Agreement shall sometimes be collectively referred to herein as the "City/County Regulatory Agreement."
 4. Such other documents and instruments as the City/County may reasonably require.
- D. The Note, the Deed of Trust, the Junior Regulatory Agreement and this Agreement, the Lease Rider, and such other documents and instruments as are reasonably required by the City/County, are collectively referred to herein as the "Loan Documents."
Only the terms of the Loan Agreement that set forth the applicable income and rent restrictions, and Federal monitoring and reporting requirements, including any definitions and special conditions appurtenant to such restrictions, are incorporated into this Agreement, except to the extent conflicting with the provisions hereof, notwithstanding that the term of the Loan Agreement may be less than the term of the City/County Regulatory Agreement. All other terms in the Loan Agreement, including, without limitation, any restrictions on transfer, are specifically excluded from this Agreement and the foregoing definition of Loan Documents.
- E. As further consideration for the HOME Loan and in furtherance of the purposes of the Program, Borrower has agreed to enter into this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership and management of the Development in compliance with the Program Requirements.

NOW, THEREFORE, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby made a part of this Agreement by this reference.
2. Property. [Borrower is the owner in fee of the Property and all improvements now and hereafter

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

located thereon] or [Borrower is the owner of: (A) a ground leasehold interest in the Property pursuant to that certain Ground Lease dated _____, between _____, as ground lessor, and Borrower, as ground lessee, a recorded memorandum of which was recorded in the Official Records of _____ County, California on {month, day, year}, as Instrument No. _____, as amended and supplemented by that certain Lease Rider of even date herewith executed by the ground lessor, Borrower and the City/County to be recorded in such Official Records immediately prior to the recordation of this Agreement (such ground lease, as may from time to time be further amended, modified, extended, replaced or assigned, being the "Ground Lease"), and (B) the fee interest in all improvements now or hereafter located on the Property, including without limitation, the Development.]

3. Definitions. Unless the context requires otherwise, or the terms are defined herein, the terms used in this Agreement shall be governed by the definitions set forth in the Junior Regulatory Agreement, and by the Program statutes, and the definitions included in the applicable Program Requirements.
- a. "Low-income families" means a families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.
 - b. "Fiscal Integrity" means that the total of Operating Income plus funds released pursuant to this Agreement from the operating reserve account is sufficient to (1) pay all current Operating Expenses, (2) pay all current approved debt service, (3) fully fund all reserves, and (4) pay other extraordinary costs permitted by this Agreement. The ability to pay any or all of the annual permitted distribution must not be considered in determining Fiscal Integrity.
 - c. "Fiscal Year" means the annual period commencing on **January 1** and concluding on **December 31** each year.
 - d. "HOME Assisted Unit" is an Assisted Unit under 25 C.C.R. § 8301(a) and 24 C.F.R. § 92, as amended, that is funded by the HOME Loan.
 - e. "HOME Rent" means Rent and utilities that do not exceed the applicable amounts calculated annually by HUD under 24 C.F.R. § 92, as amended, for Low-income families. If a HOME Assisted Unit receives Federal or State project-based rental subsidy, and the tenant pays as a contribution toward Rent not more than 30 percent of the tenant's adjusted income, the maximum HOME Rent is the Rent allowable under the Federal or State project-based rental subsidy program. If a tenant is to pay utilities, HOME Rent must be reduced

by the City/County-approved monthly utility allowance.

f. "Rent" means all charges, other than deposits, paid by the tenant for the use and occupancy of a Unit in this Development. Rent must be reduced by any federal or state government project-based rental assistance paid on behalf of the tenant.

4. Compliance with Program Requirements. The Borrower agrees that at all times its actions regarding the Development and the use of funds provided under the Loan Agreement must be in conformity with all Program Requirements. The Borrower acknowledges that it is familiar with the Program Requirements and has access to professional advice to the extent necessary to enable the Borrower to fully comply with the Program Requirements.

5. Term of Agreement. This Agreement will commence upon the date of its recordation (the "Commencement Date"), and remain in full force and effect and will apply to the Development through and including the date which is [fifty-five (55) years from its recordation (if HOME Loan closes at permanent closing)] or [fifty-eight (58) years from its recordation (if HOME Loan closes at construction)] regardless of any payoff of the HOME Loan or sale, assignment, transfer, or conveyance of the Development, unless terminated earlier by the City/County pursuant to the terms of this Agreement or extended by the mutual consent of the parties. Additionally, if the HOME Loan is not fully repaid within [55 years (if HOME Loan closes at permanent closing)][58 years (if HOME Loan closes at construction)] from the Commencement Date, this Agreement will remain in full force and effect until the HOME Loan is fully repaid.

This Agreement consists of the Federal period of affordability (the "Federal Period") and the State period of affordability (the "State Period") which will run concurrently from the date this Agreement is recorded. The Federal Period is a term of [thirty (30) years (if perm loan)][thirty-three (33) years (if construction loan)] and one hundred and twenty (120) calendar days, and the State Period is a term of [fifty-five (55) years (if perm loan)][fifty-eight (58) years (if construction loan)], regardless of any payoff of the HOME Loan or sale, assignment, transfer, or conveyance of the Development unless terminated earlier by the City/County pursuant to the terms of this Agreement or extended by the mutual consent of the parties. Additionally, if the HOME Loan is not fully repaid within the State Period, the State Period will continue until the HOME Loan is fully repaid.

6. Assisted Units, Restricted Units, or Supportive Housing Units.

- a. Borrower must provide within the Development, the HOME Assisted Units set forth in Unit Mix Chart in Exhibit B.
- b. Borrower must provide within the Development, the Supportive Housing Units set forth in Exhibit B.
- c. Restricted Units must not differ substantially in size or amenity level from non-Restricted Units within the Development with the same number of bedrooms, and Restricted Units

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

must not be segregated from non-Restricted Units.

- d. Within the limits of subparagraph b. of this paragraph, and subject to the requirements of subparagraph a. of this paragraph, Borrower may change the designation of a particular Unit from Assisted Unit to non-Assisted Unit, and vice versa, and Restricted Unit to non-Restricted Unit, and vice versa, over time if:
 - I. The Units are floating Units;
 - II. It is consistent with subparagraph a. of this paragraph; and
 - III. It is consistent with subparagraph b. of this paragraph.
- e. Borrower must comply with all the requirements for any Supportive Housing Units set forth in Exhibit B.

7. Tenant Selection Standards.

- a. Borrower must rent HOME Assisted Units to only Low-income families in accordance with this Agreement and the Tenant Selection Plan. Borrower must ensure that all HOME Assisted Units are occupied by only Low-income families in accordance with this Agreement and the Tenant Selection Plan.
- b. The Tenant Selection Plan must be developed by the Borrower in accordance with 24 C.F.R. § 92, as amended, and approved by, and on file with, the City/County prior to the start of “lease-up” of the property. The Tenant Selection Plan may be periodically altered, and such alteration must be submitted to and approved by the City/County prior to use.
- c. The Tenant Selection Plan must include:
 - (1) Criteria that will limit the HOME Assisted Units to Low-income families and the Target Population in Exhibit B;
 - (2) Reasonable criteria for selection or rejection of tenant applications which must not discriminate or be in violation of any federal, state, or local law governing discrimination, or any other arbitrary factor, and are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants, and such other reasonable obligations of the lease including house rules);
 - (3) The actions to be taken by Borrower to affirmatively market all Units in a manner that ensures equal access in accordance with 24 C.F.R § 92, as amended, to all persons in any category protected by federal, state, or local laws governing discrimination, and without regard to any arbitrary factor;
 - (4) A prohibition on excluding applicants with a voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher program (24 C.F.R. Part 982) or an applicant participating in a HOME tenant-based rental assistance program (24 C.F.R. Part 92) because of the status of the prospective tenant as a holder of such voucher or comparable HOME tenant-based assistance document;
 - (5) A detailed description of how the Borrower’s tenant selections will comply with the

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor’s Identification Number: xxx xxx xxxx

Contract No.: -HOME-

- VAWA requirements prescribed in 24 C.F.R. §92, as amended;
- (6) A prohibition of local residency preferences, except where accompanied by an equal preference for employment in the local area and applied to areas not smaller than municipal jurisdictions or recognized communities within unincorporated areas;
 - (7) Tenant selection procedures that include the following components, and that are available to prospective tenants upon request:
 - (A) Selection of tenants from a written waiting list in the chronological order of their applications, insofar as practicable;
 - (B) Notification to tenant applicants of eligibility for residency and, based on turnover history for HOME Assisted Units in the Development, the approximate date when an HOME Assisted Unit may be available;
 - (C) Prompt notification to tenant applicants who are found ineligible to occupy an HOME Assisted Unit of their ineligibility and the reason for the ineligibility, and of their right to appeal this determination;
 - (D) Maintenance of a waiting list of applicant households eligible to occupy HOME Assisted Units, Assisted Units, and non-assisted units designated for various tenant income levels, which must be made available to prospective tenants upon request;
 - (E) Procedures for obtaining information regarding prospective tenants' incomes as necessary to certify that such income does not exceed the income limit limitations;
 - (F) Procedures for obtaining statistical information for identifying the status of tenants as either elderly or veteran; and
 - (G) Targeting specific Special Needs Populations identified in Exhibit B.

d. Borrower must rent vacant Units to households with no less than the number of people specified in the following schedule:

Unit Size	Minimum Number of Persons in Household
SRO	1
0-BR	1
1-BR	1
2-BR	2
3-BR	4
4-BR	6
5-BR	8

Borrower may assign tenant households to units of sizes other than those indicated as appropriate in the table above if the Borrower reasonably determines that special circumstances warrant such an assignment, and the reasons are documented in the tenant's file and there is no violation of any occupancy law or fire law. The Borrower's determination is subject to approval by the City/County. Through the Tenant Selection Plan, Borrower may receive advance City/County approval of categorical exceptions to the above schedule.

Residential occupancy limits must comply with applicable laws.

8. Non-Discrimination. Borrower must not discriminate against any tenant or prospective tenant on the basis of any class or status prohibited by Government Code § 12920 including: race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or any other arbitrary factor in violation of any state, federal or local law governing discrimination in rental housing. The restriction of housing to elderly and Special Needs Populations is permitted where the housing is intended to benefit those targeted groups in compliance with applicable law, and only with prior approval of the selection criteria by the **City/County**. Such Special Needs Populations are detailed in Exhibit B.
9. Rental Agreement and Occupancy Procedures.
 - a. Each Low-income families selected to occupy an HOME Assisted Unit in the Development must enter into a written rental or occupancy agreement (i.e. a lease) with the Borrower, a template of which is subject to approval by the **City/County** prior to the start of lease-up.
 - b. All rental or occupancy agreements must include:
 - (1) A term of not less than one year, unless by mutual agreement of the tenant and the Borrower;
 - (2) Provisions requiring good cause for termination of tenancy;
 - (3) A provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;
 - (4) Notice of grievance procedures for hearing complaints of tenants and appeal of management action;
 - (5) A requirement that the tenant annually recertify household income and size; and
 - (6) A lease addendum setting forth the requirements and disclosures of the federal Violence Against Women Act of 2013 (VAWA), as subsequently amended and reauthorized.
 - c. The Borrower must not terminate the tenancy or refuse to renew the lease of a tenant of a HOME Assisted Unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause.
 - d. To terminate or refuse to renew tenancy, the Borrower must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of the tenancy.
 - e. One or more of the following constitutes "good cause":

- (1) Failure by the tenant to maintain applicable eligibility requirements under the Program or other eligibility requirements as approved by the **City/County**;
 - (2) Material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or repeated minor violations of the lease which:
 - (a) Adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related Project facilities;
 - (b) Substantially interfere with the management, maintenance, or operation of the Development; or
 - (c) Result from the failure or refusal to pay, in a timely fashion, Rent or other permitted charges when due. Failure or refusal to pay in a timely fashion is a minor violation if payment is made during the 3 day pay or quit notice period;
 - (3) Material failure by the tenant to carry out obligations under federal, state, or local law;
 - (4) Subletting by the tenant of all or any portion of the HOME Assisted Unit; or
 - (5) Any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the Borrower has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the Lease or the refusal to recertify income or household size.
- f. A rental or occupancy agreement may not contain any of the following provisions:
- (1) Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Borrower or Borrower's agent in a lawsuit brought in connection with the rental or occupancy agreement;
 - (2) Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Borrower may dispose of this personal property in accordance with state law;
 - (3) Agreement by the tenant not to hold the Borrower or Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - (4) Agreement of the tenant that the Borrower or Borrower's agent may institute a lawsuit without notice to the tenant;

- (5) Agreement by the tenant that the Borrower or Borrower's agent may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- (6) Agreement by the tenant to waive any right to a trial by jury;
- (7) Agreement by the tenant to waive tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the rental or occupancy agreement; and
- (8) Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- (9) Agreement by the tenant to accept Supportive Services that are offered.
- g. The Borrower must establish reasonable rules of conduct and occupancy. Such rules must be consistent with state law and the HOME Regulations, including without limitation, the pet ownership requirements of the Pet Friendly Housing Act of 2017 (Health & Safety Code § 50466). Said rules must be in writing and must be given to each tenant upon occupancy. Any change must become effective no fewer than 30 days after giving written notice thereof to each household.
- h. The Borrower must adopt an appeal and grievance procedure to resolve grievances filed by tenants and appeals of actions taken by Borrower with respect to tenants' occupancy in the Development, and prospective tenants' applications for occupancy. The Borrower's appeal and grievance procedure must be subject to **City/County** approval and, at a minimum, must include the following:
- (1) A requirement for delivery to each tenant and applicant of a written copy of the appeal and grievance procedure;
 - (2) Procedures for informal dispute resolution;
 - (3) A right to a hearing before an impartial body, which must consist of one or more persons with the power to render a final decision on the appeal or grievance; and
 - (4) Procedures for the conduct of an appeal or grievance hearing and the appointment of an impartial hearing body.

10. Rent.

- a. HOME Assisted Units.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

- (1) For the Initial Operating Year, Borrower must charge Rent for the HOME Assisted Units in the Development in accordance with the Unit Mix Chart in Exhibit B.
- (2) After the Initial Operating Year, Borrower may adjust the Rent for HOME Assisted Units no more than every twelve (12) months as long as the adjustment does not exceed the applicable HOME Rent Limit. Prior to any adjustments, however, the Borrower must obtain the City/County's review and written approval of the adjustment.
- (3) Borrower may adjust Rent for HOME Assisted Units subsidized under Section 8 of the Housing Act of 1937 or any comparable federal or state project-based rental assistance program as required by the respective rental assistance program, for as long as the HOME Assisted Units continue to receive the project-based rental assistance.
- (4) Any household certified as a Low-income families upon initial occupancy, but whose income at the time of annual recertification increased above that of a Low-income families, must pay Rent as follows:
 - (A) If the household's income qualifies for another Restricted Unit in the Development, then the household must occupy this Restricted Unit by moving to it, or by redesignation if the Units are floating, and pay Rent applicable to the Restricted Unit;
 - (B) If the household's income does not qualify for another Restricted Unit in the Development, then the household must occupy any available non-Restricted Unit by moving to it, or by redesignation if the Units are floating, and pay Rent applicable to the non-Restricted Unit. If there are no available non-Restricted Units for the household to occupy, then the Borrower must immediately submit a plan to the City/County that describes the actions the Borrower will take to correct the noncompliance and ensure all vacancies for the Project are filled in accordance with 24 C.F.R. § 92, as amended. In addition, this plan must also describe any adjustments to the Rent. The Borrower must execute this plan upon the City/County's written approval; or
 - (C) As required by any low-income tax credit rules under section 42 of the Internal Revenue Code if applicable.
- (5) If at the time of recertification, a tenant's household size has changed and no longer meets the occupancy standards under this Agreement, or the Tenant Selection Plan, the Borrower may require the tenant household to move to the next available appropriately sized Unit and pay Rent applicable to that Families income.

b. Non-HOME Assisted Units and Commercial Space.

- (1) For the Initial Operating Year, Borrower must charge Rent for the non-HOME Assisted

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

Units in the Development in accordance with the Unit Mix Chart in Exhibit B.

(2) After the Initial Operating Year, Borrower may increase Rent for non-HOME Assisted Units according to any laws or agreements applicable to those Units.

(3) Borrower must establish and implement a rent structure and operations budget for non-Assisted Units and any Commercial Space, which ensures the Fiscal Integrity of the Development. Borrower must estimate all income and expenses attributable to the non-HOME Assisted Units and any Commercial Space or commercial use, in the annual operating budget and Schedule of Rental Income described in this Agreement and must report all income and expenses attributable to non-HOME Assisted Units and Commercial Space as project revenue in the annual report described in this Agreement.

c. Units in the Development covered by project-based rental assistance, if any, are described in Exhibit C. For such Units:

(1) Borrower must in good faith apply for and accept all available renewals of project-based rental assistance; and

(2) If the project-based rental assistance is terminated, Rents for Units previously covered by this assistance may be increased above the levels shown in the schedule published by the City/County for the applicable Unit size and income limit, but only to the minimum extent required for project feasibility, as determined by the City/County. However, Rent must not in any event be increased to an amount more than thirty percent (30%) of fifty percent (50%) of area median income, adjusted by bedroom number in accordance with the requirements of any low-income housing tax credits.

11. Certification of Tenant Income and Household Size.

a. The income and household size of all Families occupying HOME Assisted Units must be certified by the Borrower prior to occupancy and recertified annually thereafter in a manner approved by the City/County in the Development's Management Plan and in accordance with Program Requirements, low-income housing tax credits, and mortgage revenue bonds, as applicable, if they do not conflict with subparagraphs b. through e. of this paragraph.

b. For the initial certification, the Borrower must determine a Family's Annual Income by examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement).

c. For any recertifications, the Borrower must determine a Family's Annual Income by one of the following:

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

- (1) Examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family;
 - (2) Obtaining from the Family a written statement of the amount of the Family's Annual Income and Family size, along with a certification that the information is complete and accurate. The certification must state that the Family will provide source documents upon request; or
 - (3) Obtaining a written statement from the administrator of a government program under which the Family receives benefits, and which examines each year the Annual Income of the Family. The statement must indicate the tenant's Family size and state the amount of the Family's Annual Income; or alternatively, the statement must indicate the current dollar limit for extremely low-income families for the Family size of the tenant and state that the tenant's Annual Income does not exceed this limit.
- d. Upon recertification, if the Borrower elects to determine a Family's Annual Income under subparagraph c.(2) or c.(3) of this paragraph, then the Borrower must examine the source documentation of the income of each tenant every 6th year of the State Affordability Period, except that, for HOME Units that receive project-based assistance, the Borrower must determine the tenant's Annual Income in accordance with the project-based assistance rules. Otherwise, the Borrower is not required to examine the income of tenants under subparagraph c. (3) of this paragraph, unless there is evidence that the tenant's written statement failed to completely and accurately state information about the Family's size or income.
- e. "Annual Income" means the same as it is defined by 24 C.F.R. § 5.609.

12. Maintenance and Management.

- a. Borrower is responsible for all maintenance, repair, and management functions for the Development, including without limitation, the following: selection of tenants; recertification of income and household size; evictions; collection of Rent, routine and extraordinary repairs and replacement of capital items. Borrower must maintain the entire Development, to include but not limited to all Units and common areas, in a safe and sanitary manner in accordance with federal, state, and local health, building, and housing codes, HUD physical inspection procedures (Uniform Physical Condition Standards) prescribed by 24 C.F.R. § 5.05, and HUD housing quality standards pursuant to 24 CFR Section 882.109, and the Management Plan.
- b. The Management Plan must be developed by the Borrower and approved by, and on file with, the **City/County**. The Management Plan must detail how the Borrower will comply with the management and maintenance requirements of this Agreement. The Management Plan may be periodically altered, and such alteration must be submitted to

and approved by the City/County prior to use. City/County will approve within 90 days of submission of a complete plan.

- c. Borrower may, with the prior written approval of the City/County, contract with a management agent for the performance of the services or duties required by this Agreement. However, such an arrangement does not relieve the Borrower of responsibility for proper performance of these duties. Such contract must be subject to prior written approval by the City/County and must contain a provision allowing the Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. Upon a determination by the City/County, and notice to the Borrower thereof that the contractor and the management agent have failed to operate the Development in accordance with this Agreement, the Borrower must exercise such right of termination forthwith and must make immediate arrangements for continuing performance of the requirements of this Agreement, which must be subject to approval by the City/County and the lender holding the most senior deed of trust encumbering the Property ("Senior Lender"). approval, for continuing performance of the requirements of this Agreement.
- d. Borrower may operate the Development itself only with prior written approval of the City/County. Upon a determination by the City/County, and notice to the Borrower thereof, that the Borrower has failed to operate the Development in accordance with this Agreement, the City/County may require the Borrower to contract with a management agent in collaboration with the Senior Lender to operate the Development, or to make such other arrangements as the City/County deems necessary to ensure performance of the requirements of this Agreement. Failure to implement such directive from the City/County in a timely manner may result in a notice of breach, violation or default from the City/County, or other remedies as noted in this Agreement.
- e. Borrower must operate, maintain, and repair both Restricted and non-Restricted Units equally without regard to their designation as Restricted Units or non-Restricted Units.

13. Hazard and Liability Insurance and Condemnation.

- a. The City/County must be named on applicable insurance policies covering all sites of the Development. The City/County must receive evidence of insurance coverage that satisfies Section 8303(b)(5) of the Regulations, as determined by the City/County in its reasonable discretion.

14. Annual Report and Audit. The Borrower must file with the City/County an annual report no later than 90 days after the end of each fiscal year for the Development. The report must contain a certification by the Borrower as to such information as the City/County may then require, including, but not limited to, the following:

- a. As part of the annual report, the Borrower must submit an audit of the Development prepared and certified by an independent certified public accountant in accordance with City/County audit requirements, as specified in the most current edition of the Department's

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxxx

Contract No.: -HOME-

audit handbook, titled “Audited Financial Statements for Multifamily Rental Housing,” published October 18, 2023, and as periodically updated.

- b. The report must specifically identify the number of Units rented to the elderly. The report must also specifically identify the number of Units rented to military veterans. The report must also include other relevant information as required by the **City/County**.
- c. The substantial physical defects in the Project, including a description of any major repair or maintenance work undertaken or needed in the previous and current fiscal years. Such statement must describe what steps the Borrower has taken to maintain the Project in a safe and sanitary condition in accordance with applicable housing and building codes.
- d. The occupancy of the Development indicating:
 - (1) the certified income of each current household by the Borrower; and
 - (2) the current Rent charged each household and whether these Rents include utilities and/or utility allowances (and the method of how such utility allowances are calculated).
- e. General management performance, including tenant relations and other relevant information.
- f. A summary of the information received from the recertification of tenants' incomes.
- g. Evidence of a currently paid hazard and flood insurance policy.
- h. Evidence of a currently paid liability insurance policy, naming the **City/County** as an additional loss payee.
- i. Other information reasonably required by the **City/County** and HUD, and as may be required on **City/County** forms.

15. **City/County** Review and Inspections.

- a. At any time, the **City/County** or its designee may enter and inspect the physical premises and inspect all accounting records pertaining to the construction, development, or operation of the entire Development. Upon request by the **City/County**, the Borrower shall notify occupants of upcoming inspections of their Units in accordance with state law.
- b. In accordance with 25 C.C.R. § 8314(g), if the Borrower is paying Supportive Services Costs as Operating Expenses, the **City/County** will require the Borrower to maintain records of group activities, individualized services, and referrals at an onsite location, and to make such records available for **City/County** inspection.
- c. Monitoring site-visit Inspections shall comply with 24 CFR Part 92, as amended, and including property standards.

16. Annual Operating Budget, and Schedule of Rental Income.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

- a. No later than 60 days prior to the beginning of each fiscal year of the Development, the Borrower must submit to the **City/County** a proposed annual operating budget and a Schedule of Rental Income (SRI) on forms provided by the **City/County**. The proposed annual operating budget will set forth the Borrower's estimate of the Development's income, operating expenses and debt service for the upcoming year, reserves, and a year-to-date operating statement. The Schedule of Rental Income will set forth the then-current Rent roll identifying each tenant household (either by unit number or other method of household identification, as determined by the **City/County**), their household size, income, current Rent, and proposed Rent adjustments, including utility allowances, if applicable. The Schedule of Rental Income will provide estimated income for Assisted Units, Non-Assisted Units and commercial space and activities. Annual operating budgets and Rent adjustments are subject to approval by the **City/County**.

Borrower must operate the Development in accordance with the approved annual budget and SRI.

- b. Borrower must operate the Development in accordance with the First-Year Operating Budget and Schedule of Rental Income approved by and on file with the **City/County**. Such budget and Schedule of Rental Income, collectively, must show all anticipated income, debt service and expenses for management, operations, reserves, and maintenance for the first fiscal year or portion thereof following initial occupancy.
17. Accounting Records. In a manner subject to Department approval, Borrower must maintain an accrual or modified accrual basis general ledger accounting system that is posted monthly and that accurately and fully shows all assets, liabilities, income, and expenses of the Development. All records and books relating to this system must be retained for not less than seven (7) years and in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records are subject to inspection and audit by the **City/County** or its representative.

18. Violation of Regulatory Agreement by Borrower.

- a. In the event of the Borrower's breach, violation, or default in the performance of any covenant, agreement or obligation of the Borrower set forth in this Agreement, the **City/County** must give the Borrower written notice in the manner specified in this Agreement, specifying the nature of the violation, breach or default and the action needed to cure. If the default, breach, or violation is not cured to the reasonable satisfaction of the **City/County** within the time period specified in the notice, which will not be less than the applicable time to cure as stated in this Agreement, the **City/County** may declare a default hereunder and may take any one or more of the following actions:

- (1) Apply to any court, state or federal, for specific performance of this Agreement. It is agreed by the Borrower that the injury to the **City/County** arising from a default under any of the terms of this Agreement would be irreparable and that the amount of compensation, which would provide adequate relief to the **City/County**, in light of the

- purposes and requirements of the Program, would be impossible to ascertain.
- b. If a breach, violation, or default involves charging tenants Rent or other charges in excess of those permitted under this Agreement, the City/County may demand the return of such excess Rents or other charges to the affected households. If legal action is necessary to enforce the provisions of this Agreement, the City/County may seek the return of such overcharges to the affected households.
 - c. The remedies of the City/County hereunder and under the other HOME Loan Documents are cumulative, and the exercise of one or more of such remedies will not be deemed an election of remedies and will not preclude the exercise by the City/County of any one or more of its other remedies.
 - d. The tenants of the HOME Assisted Units are third party beneficiaries of this Agreement, all shall have such rights and remedies to enforce the HOME Program Requirements.

19. Time to Cure.

If a breach, violation or default occurs with respect to the covenants set forth in this Agreement, prior to exercising the exclusive remedy described in paragraph 14 thereunder, the City/County shall give Borrower written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Borrower shall have such period to effect a cure prior to exercise of the City/County's remedy. If the default is such that it is not reasonably capable of being cured within such 30-day period and if Borrower (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time, not to exceed an additional 180 days to cure the default prior to exercise of the remedy by the City/County. If Borrower or its successor in interest is a limited partnership, and Borrower fails to take corrective action or to cure the default within such a specified time, the City/County shall give Borrower written notice thereof, whereupon the limited partner may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions.

20. Controlling Agreement.

- a. Borrower specifically agrees and acknowledges that, notwithstanding any internal accounting procedures or provision pertaining to the use of receipts, payments, reserves, and distributions contained in its partnership or other organizational documents or agreements, the Program Requirements control as to the use of the funds provided under the Loan Agreement and all Operating Income from the Development.
- b. In the event of any inconsistencies or conflicts between the terms of this Agreement and the terms of the other HOME Loan Documents, the terms of this Agreement control.

21. Assignment of City/County Rights. The City/County retains the right at its sole discretion to assign all or part of its rights under this Agreement to another governmental entity or agency

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

for the purpose of ensuring compliance and enforcement of Borrower's duties and obligations hereunder. In addition, the **City/County** may designate an agent to act on its behalf in monitoring compliance and enforcing the provisions hereof.

22. Amendment. This Agreement must not be altered or amended except in writing, executed between or among all the parties.
23. Partial Invalidity. If any provisions of this Agreement are invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.
24. Binding on Successors. This Agreement binds, and the benefits hereof inure to, the respective parties hereto, their legal representatives, executors, administrators, transfers, successors in interest and assigns, provided, however, that the Borrower may not assign this Agreement or any of its obligations hereunder, voluntarily or by operation of law, without the prior written approval of the **City/County**. The term "Borrower" as used herein includes and applies to any person or entity succeeding to the legal, equitable, proprietary, or possessory interest of Borrower in the Development.
25. Recording Agreement. This Agreement, and all amendments hereto, must be executed by each of the parties. This Agreement, or, where approved by the **City/County** in writing, a memorandum thereof, must be recorded against the Property in the official records of the county in which the Development is situated, superior to the lien of the Deed of Trust.
26. Indemnification and Waiver.
- a. The following paragraph does not apply to any successor in interest to the Property that succeeds to the Borrower as a result of foreclosure upon a loan to Borrower: Borrower agrees to indemnify the **City/County** and its agents, employees and officers against, and holds the **City/County** and its agents, employees and officers harmless from, any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees) of every name, kind and description, which the **City/County** may incur as a direct or indirect consequence of: (1) the making of the HOME Loan to the Borrower; (2) Borrower's failure to perform any obligations as and when required by this Agreement or any of the other HOME Loan Documents; (3) any failure at any time of any of Borrower's representations or warranties to be materially true and correct; (4) any act or omission by Borrower, any contractor, subcontractor, material supplier, engineer, architect or other person or entity with respect to the Property or the construction, management, maintenance or operation of the Development; or (5) the presence of any recognized environmental conditions at the Development or on the Property. Borrower (but not any successor to Borrower in the ownership of the Property) must pay immediately upon the **City/County's** demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of ten percent (10%) per annum. Borrower's duty to indemnify and save harmless includes the duties to defend as set forth in section 2778 of the Civil Code. Borrower (but not any successor to Borrower in the

ownership of the Property) must indemnify and hold harmless the **City/County** and its agents, officers and employees as set forth herein regardless of the existence or degree of fault or negligence whether active or passive, primary or secondary on the part of the **City/County**, the Borrower or their respective agents, officers, employees, contractors or subcontractor; provided, however, that Borrower's duty to indemnify and hold harmless hereunder will not extend to liability arising from the gross negligence or willful misconduct of the **City/County**. Borrower's duty to indemnify the **City/County** will survive the term of this Agreement, the release and cancellation of the Note, and the reconveyance or partial reconveyance of the Deed of Trust. In the event the United States Department of Housing and Urban Development ("HUD") acquires title to the Development, this indemnification provision will not apply to HUD or released party.

- b. The Borrower waives and releases all rights to any types of express or implied indemnity against the **City/County** or its agents, officers, or employees.
- c. The Borrower expressly waives the protections of section 1542 of the Civil Code in relation to subparagraphs a. and b. of this paragraph. Said section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

- 27. Waiver. No waiver by the **City/County** of any breach of or default under this Agreement will be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.
- 28. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or the intent of this Agreement.
- 29. Governing Law. This Agreement will be construed in accordance with and governed by the laws of the State of California. All code references herein refer to the California Codes, unless specifically indicated otherwise.
- 30. Notice. Except for any notice required under applicable law to be given in another manner, any notices, demands or communications between the parties hereto will be sufficiently given if, and will not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested or delivered by express delivery service with delivery receipt, to the address of the respective party as set forth below, or to such other address as the respective party may have designated by written notice given to the other party in the manner provided herein. Such written notices, demands and communications will be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date on which delivery was attempted.
- 31. Special Conditions. The Borrower agrees to comply with the special conditions, if any, as set

forth in Exhibit C, which is made a part hereof. In the event of any inconsistencies between the terms set forth in the Exhibit C Special Conditions of this Agreement and the terms of this Agreement, the terms of the Special Conditions shall prevail.

32. Attorneys' Fees. The prevailing party in any action to enforce this Agreement, including the residents of Assisted Units, are entitled to reasonable attorneys' fees as determined by the trier of fact in that forum.
33. City/County's Approval, Etc. Whenever this Agreement or any of the other Loan Documents requires the approval, consent, or other determination by the City/County, the City/County shall act reasonably and in good faith unless any such approval or consent is expressly stated as being in the City/County's sole discretion.
34. Compliance with IRC Section 42(h)(6)(E)(ii). In the event a regulatory agreement required by the California Tax Credit Allocation Committee ("TCAC") is recorded against the Property as a condition of the award of federal tax credits, the City/County agrees to comply with the provisions set forth in Internal Revenue Code ("IRC") Section 42(h)(6)(E)(ii). As of the date of this Agreement, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure.
35. Incorporation. The following Exhibits, all attached hereto, are hereby incorporated into this Agreement:
- Exhibit A: Legal Description;
 - Exhibit B: Unit Designations, Rent Schedule, Supportive Services Requirements, and Additional Reporting; and
 - Exhibit C: Special Conditions

[Signatures of the Borrower and the Department follow on page XX of these Affordability Restrictions. The remainder of this page is intentionally left blank.]

BORROWER:

[insert signature block provided by Borrower]

Address for Notice:

[enter name and address of ultimate borrower]

[Signatures Continue On Following Page.]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

CITY/COUNTY:

City/County of XXXXXXXXXXXXXXXXX

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

[enter mailing address or PO Box here]

By: _____

[Name], Closings Manager

DRAFT

[All signatures must be acknowledged.]

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

EXHIBIT A TO SENIOR REGULATORY AGREEMENT
LEGAL DESCRIPTION

[enter legal description from title report]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

Unit Mix Chart:

Unit Mix Breakdown												
# of Bedrooms	HOME Assisted Units	Restricted Units	Non-Restricted Units	Total Units	Max. Gross Rent	Util. Allowance	Net Rent	Annual Net Rent	Income Limit	Subsidy Units	SH Units	SNP Units
2									N/A	Manager Unit		
									N/A	Manager Unit		
0									30% AMI			
1									30% AMI			
2									45% AMI			
									45% AMI			
									50% AMI			
									60% AMI			
TOTALS												
Total number of bedrooms:												

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxxx
 Contract No.: -HOME-

EXHIBIT C TO SENIOR REGULATORY AGREEMENT

Special Conditions

In the event of any inconsistencies or conflicts between these Special Conditions and the terms of this Agreement, or any of the other HOME Loan Documents, the terms of these Special Conditions control.

1. [Add special condition if any or mark as "Not Applicable"]

DRAFT

EXHIBIT H TO LOAN AGREEMENT

Junior Regulatory Agreement

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

RECORDING REQUESTED BY:

City/County of X

WHEN RECORDED MAIL TO:

City of X ADDRESS CITY, STATE ZIP

(1) CITY/COUNTY OF X

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

(2) JUNIOR REGULATORY AGREEMENT

LOAN NUMBER **XX-HOME-XXXXX**

This Junior Regulatory Agreement (the "Agreement") dated **MONTH DD, YYYY**, for reference purposes only, is made and entered into by and between _____, a _____ (the "Borrower"), and the **City/County of XXXXXX** a municipal corporation of the State of California (the "Department").

RECITALS:

- A. Borrower has applied to the **City/County** for a loan (the "HOME Loan") for the development of a Rental Housing Development located at _____, California, consisting of a total of **[#]**-rental units (the "Development"), of which **[#]**-HOME Assisted Units are to be occupied by Low-income families as provided in this Agreement. The Development includes the real property described in Exhibit A hereto (the "Property"). The **City/County** has conditionally agreed to provide the HOME Loan under 24 C.F.R. Part 92, as amended, Health and Safety Code § 50676, HOME Investment Partnerships Program Allocation Plan and Substantial Amendment to the AP and Consolidated Plan, and the Uniform Multifamily Regulations at 25 C.C.R. § 8300 *et seq.*, (collectively referred to as the "HOME Regulations"). The obligations imposed on the Borrower by this Agreement, the HOME Regulations, and the **City/County's** policies and procedures are collectively referred to herein as the "Program Requirements."
- B. Borrower and the **City/County** have entered into that Loan Agreement dated **[MONTH DD, YYYY]**, regarding the Development and governing the terms of the HOME Loan (the "Loan Agreement").
- C. Also as required by the **City/County** and in addition to the Loan Agreement, Borrower has executed or will execute each of the following documents in form approved by the **City/County**:
 - 1. A promissory note evidencing the HOME Loan specifying, inter alia, the principal amount thereof, the interest accruing thereon and the terms of repayment thereof (the "Note").
 - 2. A deed of trust, assignment of rents, security agreement, and fixture filing securing the Note and naming the **City/County** as beneficiary and the Borrower as trustor and recorded or to be recorded against the Property (the "Deed of Trust"). The Deed of Trust must have such priority and be subject only to such matters of record as may be approved in writing by the **City/County**.
 - 3. Such other documents and instruments as the **City/County** may reasonably require.

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

D. The Loan Agreement, the Note, the Deed of Trust, this Agreement, and such other documents and instruments as are reasonably required by the **City/County** are collectively referred to herein as the "HOME Loan Documents."

E. As further consideration for the HOME Loan and in furtherance of the purposes of the Program, Borrower has agreed to enter into this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Development in compliance with the Program Requirements.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby made a part of this Agreement by this reference.
2. **Property.** [Borrower is the owner in fee of the Property and all improvements now and hereafter located thereon] or [Borrower is the owner of: (A) a ground leasehold interest in the Property pursuant to that certain Ground Lease dated _____, between _____, as ground lessor, and Borrower, as ground lessee, a recorded memorandum of which was recorded in the Official Records of _____ County, California on {month, day, year}, as Instrument No. _____, as amended and supplemented by that certain Lease Rider of even date herewith executed by the ground lessor, Borrower and the City/County to be recorded in such Official Records immediately prior to the recordation of this Agreement (such ground lease, as may from time to time be further amended, modified, extended, replaced or assigned, being the "**Ground Lease**"), and (B) the fee interest in all improvements now or hereafter located on the Property, including without limitation, the Development.]
3. **Definitions.** Unless provided for in this Agreement, the capitalized terms used in this Agreement have the same meaning as they are defined in the HOME Regulations. For the purposes of this Agreement the following additional definitions apply:
 - a. "Low-income families" means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.
 - b. "Fiscal Integrity" means that the total of Operating Income plus funds released pursuant to this Agreement from the operating reserve account is sufficient to (1) pay all current Operating Expenses, (2) pay all current approved debt service, (3) fully fund all reserves, and (4) pay other extraordinary costs permitted by this Agreement. The ability to pay any or all of the annual permitted distribution must not be considered in determining Fiscal Integrity.
 - c. "Fiscal Year" means the annual period commencing on [insert date here] and concluding on [insert date here] each year.
 - d. "Net Cash Flow" means all annual Operating Income of the Development less the amounts paid

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

- a. Borrower must provide within the Development, the HOME Assisted Units set forth in Unit Mix Chart in Exhibit B.
- b. Borrower must provide within the Development, the Supportive Housing Units set forth in Exhibit B.
- c. Restricted Units must not differ substantially in size or amenity level from non-Restricted Units within the Development with the same number of bedrooms, and Restricted Units must not be segregated from non-Restricted Units.
- d. Within the limits of subparagraph b. of this paragraph, and subject to the requirements of subparagraph a. of this paragraph, Borrower may change the designation of a particular Unit from Assisted Unit to non-Assisted Unit, and vice versa, and Restricted Unit to non-Restricted Unit, and vice versa, over time if:
 - I. The Units are floating Units;
 - II. It is consistent with subparagraph a. of this paragraph; and
 - III. It is consistent with subparagraph b. of this paragraph.
- e. Borrower must comply with all the requirements for any Supportive Housing Units set forth in Exhibit B.

7. Tenant Selection Standards.

- a. Borrower must rent HOME Assisted Units to only Low-income families in accordance with this Agreement and the Tenant Selection Plan. Borrower must ensure that all HOME Assisted Units are occupied by only Low-income families in accordance with this Agreement and the Tenant Selection Plan.
- b. The Tenant Selection Plan must be developed by the Borrower in accordance with 24 C.F.R. § 92, as amended, and approved by, and on file with, the City/County prior to the start of “lease-up” of the property. The Tenant Selection Plan may be periodically altered, and such alteration must be submitted to and approved by the City/County prior to use.
- c. The Tenant Selection Plan must include:
 - (1) Criteria that will limit the HOME Assisted Units to Low-income families and the Target Population in Exhibit B;
 - (2) Reasonable criteria for selection or rejection of tenant applications which must not discriminate or be in violation of any federal, state, or local law governing discrimination, or any other arbitrary factor, and are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants, and such other reasonable obligations of the lease including house rules);

- (3) The actions to be taken by Borrower to affirmatively market all Units in a manner that ensures equal access in accordance with 24 C.F.R § 92, as amended, to all persons in any category protected by federal, state, or local laws governing discrimination, and without regard to any arbitrary factor;
- (4) A prohibition on excluding applicants with a voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher program (24 C.F.R. Part 982) or an applicant participating in a HOME tenant-based rental assistance program (24 C.F.R. Part 92) because of the status of the prospective tenant as a holder of such voucher or comparable HOME tenant-based assistance document;
- (5) A detailed description of how the Borrower's tenant selections will comply with the VAWA requirements prescribed in 24 C.F.R. § 92, as amended;
- (6) A prohibition of local residency preferences, except where accompanied by an equal preference for employment in the local area and applied to areas not smaller than municipal jurisdictions or recognized communities within unincorporated areas;
- (7) Tenant selection procedures that include the following components, and that are available to prospective tenants upon request:
 - (A) Selection of tenants from a written waiting list in the chronological order of their applications, insofar as practicable;
 - (B) Notification to tenant applicants of eligibility for residency and, based on turnover history for HOME Assisted Units in the Development, the approximate date when an HOME Assisted Unit may be available;
 - (C) Prompt notification to tenant applicants who are found ineligible to occupy an HOME Assisted Unit of their ineligibility and the reason for the ineligibility, and of their right to appeal this determination;
 - (D) Maintenance of a waiting list of applicant households eligible to occupy HOME Assisted Units, Assisted Units, and non-assisted units designated for various tenant income levels, which must be made available to prospective tenants upon request;
 - (E) Procedures for obtaining information regarding prospective tenants' incomes as necessary to certify that such income does not exceed the income limit limitations;
 - (F) Procedures for obtaining statistical information for identifying the status of tenants as either elderly or veteran; and
 - (G) Targeting specific Special Needs Populations identified in Exhibit B.

d. Borrower must rent vacant Units to households with no less than the number of people specified in the following schedule:

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

Unit Size	Minimum Number of Persons in Household
SRO	1
0-BR	1
1-BR	1
2-BR	2
3-BR	4
4-BR	6
5-BR	8

Borrower may assign tenant households to units of sizes other than those indicated as appropriate in the table above if the Borrower reasonably determines that special circumstances warrant such an assignment, and the reasons are documented in the tenant's file and there is no violation of any occupancy law or fire law. The Borrower's determination is subject to approval by the City/County. Through the Tenant Selection Plan, Borrower may receive advance City/County approval of categorical exceptions to the above schedule. Residential occupancy limits must comply with applicable laws.

8. Non-Discrimination. Borrower must not discriminate against any tenant or prospective tenant on the basis of any class or status prohibited by Government Code § 12920 including: race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or any other arbitrary factor in violation of any state, federal or local law governing discrimination in rental housing. The restriction of housing to elderly and Special Needs Populations is permitted where the housing is intended to benefit those targeted groups in compliance with applicable law, and only with prior approval of the selection criteria by the City/County. Such Special Needs Populations are detailed in Exhibit B.

9. Rental Agreement and Occupancy Procedures.

- a. Each Low-income families selected to occupy a HOME Assisted Unit in the Development must enter into a written rental or occupancy agreement (i.e. a lease) with the Borrower, a template of which is subject to approval by the City/County prior to the start of lease-up.
- b. All rental or occupancy agreements must include:
 - (1) A term of not less than one year, unless by mutual agreement of the tenant and the Borrower;
 - (2) Provisions requiring good cause for termination of tenancy;
 - (3) A provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;
 - (4) Notice of grievance procedures for hearing complaints of tenants and appeal of management action;
 - (5) A requirement that the tenant annually recertify household income and size; and
 - (6) A lease addendum setting forth the requirements and disclosures of the federal Violence Against Women Act of 2013 (VAWA), as subsequently amended and reauthorized.

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxxx
 Contract No.: -HOME-

- c. The Borrower must not terminate the tenancy or refuse to renew the lease of a tenant of an HOME Assisted Unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause.
- d. To terminate or refuse to renew tenancy, the Borrower must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of the tenancy.
- e. One or more of the following constitutes "good cause":
 - (1) Failure by the tenant to maintain applicable eligibility requirements under the Program or other eligibility requirements as approved by the City/County;
 - (2) Material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or repeated minor violations of the lease which:
 - (a) Adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related Project facilities;
 - (b) Substantially interfere with the management, maintenance, or operation of the Development; or
 - (c) Result from the failure or refusal to pay, in a timely fashion, Rent or other permitted charges when due. Failure or refusal to pay in a timely fashion is a minor violation if payment is made during the 3-day pay or quit notice period;
 - (3) Material failure by the tenant to carry out obligations under federal, state, or local law;
 - (4) Subletting by the tenant of all or any portion of the HOME Assisted Unit; or
 - (5) Any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the Borrower has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the Lease or the refusal to recertify income or household size.
- f. A rental or occupancy agreement may not contain any of the following provisions:
 - (1) Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Borrower or Borrower's agent in a lawsuit brought in connection with the rental or occupancy agreement;
 - (2) Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The Borrower may dispose of this personal property in accordance with state law;

- (3) Agreement by the tenant not to hold the Borrower or Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - (4) Agreement of the tenant that the Borrower or Borrower's agent may institute a lawsuit without notice to the tenant;
 - (5) Agreement by the tenant that the Borrower or Borrower's agent may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
 - (6) Agreement by the tenant to waive any right to a trial by jury;
 - (7) Agreement by the tenant to waive tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the rental or occupancy agreement; and
 - (8) Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
 - (9) Agreement by the tenant to accept Supportive Services that are offered.
- g. The Borrower must establish reasonable rules of conduct and occupancy. Such rules must be consistent with state law and the HOME Regulations, including without limitation, the pet ownership requirements of the Pet Friendly Housing Act of 2017 (Health & Safety Code § 50466). Said rules must be in writing and must be given to each tenant upon occupancy. Any change must become effective no fewer than 30 days after giving written notice thereof to each household.
- h. The Borrower must adopt an appeal and grievance procedure to resolve grievances filed by tenants and appeals of actions taken by Borrower with respect to tenants' occupancy in the Development, and prospective tenants' applications for occupancy. The Borrower's appeal and grievance procedure must be subject to City/County approval and, at a minimum, must include the following:
- (1) A requirement for delivery to each tenant and applicant of a written copy of the appeal and grievance procedure;
 - (2) Procedures for informal dispute resolution;
 - (3) A right to a hearing before an impartial body, which must consist of one or more persons with the power to render a final decision on the appeal or grievance; and
 - (4) Procedures for the conduct of an appeal or grievance hearing and the appointment of an impartial hearing body.

10. Rent.

a. HOME Assisted Units.

- (1) For the Initial Operating Year, Borrower must charge Rent for the HOME Assisted Units in the Development in accordance with the Unit Mix Chart in Exhibit B.

- (2) After the Initial Operating Year, Borrower may adjust the Rent for HOME Assisted Units no more than every twelve (12) months as long as the adjustment does not exceed the applicable HOME Rent Limit. Prior to any adjustments, however, the Borrower must obtain the City/County's review and written approval of the adjustment.
- (3) Borrower may adjust Rent for HOME Assisted Units subsidized under Section 8 of the Housing Act of 1937 or any comparable federal or state project-based rental assistance program as required by the respective rental assistance program, for as long as the HOME Assisted Units continue to receive the project-based rental assistance.
- (4) Any household certified as a Low-income families upon initial occupancy, but whose income at the time of annual recertification increased above that of a Low-income families, must pay Rent as follows:
 - (A) If the household's income qualifies for another Restricted Unit in the Development, then the household must occupy this Restricted Unit by moving to it, or by redesignation if the Units are floating, and pay Rent applicable to the Restricted Unit;
 - (B) If the household's income does not qualify for another Restricted Unit in the Development, then the household must occupy any available non-Restricted Unit by moving to it, or by redesignation if the Units are floating, and pay Rent applicable to the non-Restricted Unit. If there are no available non-Restricted Units for the household to occupy, then the Borrower must immediately submit a plan to the City/County that describes the actions the Borrower will take to correct the noncompliance and ensure all vacancies for the Project are filled in accordance with 24 C.F.R. § 92, as amended. In addition, this plan must also describe any adjustments to the Rent. The Borrower must execute this plan upon the City/County's written approval; or
 - (C) As required by any low-income tax credit rules under section 42 of the Internal Revenue Code if applicable.
- (5) If at the time of recertification, a tenant's household size has changed and no longer meets the occupancy standards under this Agreement, or the Tenant Selection Plan, the Borrower may require the tenant household to move to the next available appropriately sized Unit and pay Rent applicable to that Families income.

b. Non-HOME Assisted Units and Commercial Space.

- (1) For the Initial Operating Year, Borrower must charge Rent for the non-HOME Assisted Units in the Development in accordance with the Unit Mix Chart in Exhibit B.
- (2) After the Initial Operating Year, Borrower may increase Rent for non-HOME Assisted Units according to any laws or agreements applicable to those Units.
- (3) Borrower must establish and implement a rent structure and operations budget for non-Assisted Units and any Commercial Space, which ensures the Fiscal Integrity of the Development. Borrower must estimate all income and expenses attributable to the non-

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

Assisted Units and any Commercial Space or commercial use, in the annual operating budget and Schedule of Rental Income described in this Agreement and must report all income and expenses attributable to non-Assisted Units and Commercial Space as project revenue in the annual report described in this Agreement.

- c. Units in the Development covered by project-based rental assistance, if any, are described in Exhibit C. For such Units:
 - (1) Borrower must in good faith apply for and accept all available renewals of project-based rental assistance; and
 - (2) If the project-based rental assistance is terminated, Rents for Units previously covered by this assistance may be increased above the levels shown in the schedule published by the City/County for the applicable Unit size and income limit, but only to the minimum extent required for project feasibility, as determined by the City/County. However, Rent must not in any event be increased to an amount more than thirty percent (30%) of fifty percent (50%) of area median income, adjusted by bedroom number in accordance with the requirements of any low-income housing tax credits.
- d. Notwithstanding the requirements of this paragraph, the Borrower must comply with the most restrictive area medium income ("AMI") requirements that are imposed on the Project's Units by other sources of funding the Project receives (e.g., if an HOME Assisted Unit is also receiving funds from a local government loan that also restricts occupancy of the HOME Assisted Unit to people whose income is 20% of the AMI, then the HOME Assisted Unit may only be occupied by people whose income is 20% of the AMI even though Exhibit B of this Agreement restricts occupancy of HOME Assisted Units to people whose income is 30% AMI).

11. Security Deposits.

- a. Security deposits must be required of tenants only in accordance with State law and this Agreement.
- b. Any security deposits collected by the Borrower or Borrower's agent must be kept separate and apart from all other funds of the Development in a trust account with a depository insured by the Federal Deposit Insurance Corporation (F.D.I.C.), or other comparable federal deposit insurance program, and must be held and disbursed in accordance with State law. The balance of such account must at all times equal or exceed the aggregate of all outstanding obligations under said account, plus accrued interest thereon.

12. Certification of Tenant Income and Household Size.

- a. The income and household size of all Families occupying HOME Assisted Units must be certified by the Borrower prior to occupancy and recertified annually thereafter in a manner approved by the City/County in the Development's Management Plan and in accordance with Program Requirements, low-income housing tax credits, and mortgage revenue bonds, as applicable, if they do not conflict with subparagraphs b. through e. of this paragraph.
- b. For the initial certification, the Borrower must determine a Family's Annual Income by examining at

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement).

- c. For any recertifications, the Borrower must determine a Family's Annual Income by one of the following:
- (1) Examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family;
 - (2) Obtaining from the Family a written statement of the amount of the Family's Annual Income and Family size, along with a certification that the information is complete and accurate. The certification must state that the Family will provide source documents upon request; or
 - (3) Obtaining a written statement from the administrator of a government program under which the Family receives benefits, and which examines each year the Annual Income of the Family. The statement must indicate the tenant's Family size and state the amount of the Family's Annual Income; or alternatively, the statement must indicate the current dollar limit for Low-income families for the Family size of the tenant and state that the tenant's Annual Income does not exceed this limit.
- d. Upon recertification, if the Borrower elects to determine a Family's Annual Income under subparagraph c.(2) or c.(3) of this paragraph, then the Borrower must examine the source documentation of the income of each tenant every 6th year of the State Affordability Period, except that, for HOME Units that receive project-based assistance, the Borrower must determine the tenant's Annual Income in accordance with the project-based assistance rules. Otherwise, the Borrower is not required to examine the income of tenants under subparagraph c.(3) of this paragraph, unless there is evidence that the tenant's written statement failed to completely and accurately state information about the Family's size or income.
- e. "Annual Income" means the same as it is defined by 24 C.F.R. § 5.609.
- f. The Borrower must comply with the most restrictive tenant eligibility and occupancy standards that are imposed by other sources of funding the Project receives (e.g., if an HOME Assisted Unit is also receiving funds from a local government loan that also restricts occupancy of the HOME Assisted Unit to people whose income is 20% of the Area Medium Income, then the HOME Assisted Unit may only be occupied by people whose income is 20% of the Area Medium Income even though Exhibit B of this Agreement restricts occupancy of HOME Assisted Units to people whose income is 30% of the Area Medium Income).

13. Maintenance and Management.

- a. Borrower is responsible for all maintenance, repair, and management functions for the Development, including without limitation, the following: selection of tenants; recertification of income and household size; evictions; collection of Rent, routine and extraordinary repairs and replacement of capital items. Borrower must maintain the entire Development, to include but not limited to all Units and common areas, in a safe and sanitary manner in accordance with federal, state, and local health, building, and housing codes, HUD physical inspection procedures (Uniform Physical Condition Standards) prescribed by 24 C.F.R. § 5.05, and HUD housing quality standards

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

pursuant to 24 CFR Section 882.109, and the Management Plan.

- b. The Management Plan must be developed by the Borrower and approved by, and on file with, the City/County. The Management Plan must detail how the Borrower will comply with the management and maintenance requirements of this Agreement. The Management Plan may be periodically altered, and such alteration must be submitted to and approved by the City/County prior to use.
- c. Borrower may, with the prior written approval of the City/County, contract with a management agent for the performance of the services or duties required by this Agreement. However, such an arrangement does not relieve the Borrower of responsibility for proper performance of these duties. Such contract must be subject to prior written approval by the City/County and must contain a provision allowing the Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. Upon a determination by the City/County, and notice to the Borrower thereof that the contractor and the management agent have failed to operate the Development in accordance with this Agreement, the Borrower must exercise such right of termination forthwith and must make immediate arrangements, which must be subject to City/County approval, for continuing performance of the requirements of this Agreement.
- d. Borrower may operate the Development itself only with prior written approval of the City/County. Upon a determination by the City/County, and notice to the Borrower thereof, that the Borrower has failed to operate the Development in accordance with this Agreement, the City/County may require the Borrower to contract with a management agent in collaboration with the senior lender to operate the Development, or to make such other arrangements as the City/County deems necessary to ensure performance of the requirements of this Agreement. Failure to implement such directive from the City/County in a timely manner may result in a notice of breach, violation or default from the City/County, or other remedies as noted in this Agreement.
- e. Borrower must operate, maintain, and repair both Restricted and non-Restricted Units equally without regard to their designation as Restricted Units or non-Restricted Units.

14. Hazard and Liability Insurance and Condemnation.

- a. The Borrower must always keep the Development insured against loss by fire and such other hazards, casualties, liabilities, and contingencies, and in such amounts and for such periods as required by the City/County. All insurance policies and renewals thereof must be issued by a carrier and in form acceptable to the City/County.
- b. In the event of any fire or other casualty to the Development or eminent domain proceedings resulting in condemnation of the Development or any part thereof, Borrower has the right to rebuild the Development, and to use all available insurance or condemnation proceeds therefore, provided that, as determined by the City/County in its sole discretion, (a) such proceeds are sufficient to keep the HOME Loan in balance and rebuild the Development in a manner that provides adequate security to the City/County for repayment of the HOME Loan or if such proceeds are insufficient, then Borrower shall have funded any deficiency, (b) the City/County has the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material breach or default then exists under the HOME Loan Documents. If the casualty or

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

condemnation affects only part of the Development and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the HOME Loan in a manner that provides adequate security to the City/County for repayment of the remaining balance of the HOME Loan.

- c. The City/County must be named on applicable insurance policies covering all sites of the Development. The City/County must receive evidence of insurance coverage that satisfies Section 8303(b)(5) of the Regulations, as determined by the City/County in its reasonable discretion.

15. Annual Report and Audit. The Borrower must file with the City/County an annual report no later than 90 days after the end of each fiscal year for the Development. The report must contain a certification by the Borrower as to such information as the City/County may then require, including, but not limited to, the following:

- a. As part of the annual report, the Borrower must submit an audit of the Development prepared and certified by an independent certified public accountant in accordance with Department audit requirements, as specified in the most current edition of the Department's audit handbook, titled "Audited Financial Statements for Multifamily Rental Housing," published October 18, 2023, and as periodically updated.
- b. The report must specifically identify the number of Units rented to the elderly. The report must also specifically identify the number of Units rented to military veterans. The report must also include other relevant information as required by the City/County.
- c. The substantial physical defects in the Project, including a description of any major repair or maintenance work undertaken or needed in the previous and current fiscal years. Such statement must describe what steps the Borrower has taken to maintain the Project in a safe and sanitary condition in accordance with applicable housing and building codes.
- d. The occupancy of the Development indicating:
 - (1) the certified income of each current household by the Borrower; and
 - (2) the current Rent charged each household and whether these Rents include utilities and/or utility allowances (and the method of how such utility allowances are calculated).
- e. General management performance, including tenant relations and other relevant information.
- f. A summary of the information received from the recertification of tenants' incomes.
- g. Evidence of a currently paid hazard and flood insurance policy.
- h. Evidence of a currently paid liability insurance policy, naming the City/County as an additional loss payee.
- i. Other information reasonably required by the City/County and HUD, and as may be required on City/County forms.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

16. City/County Review and Inspections.

- a. At any time, the City/County or its designee may enter and inspect the physical premises and inspect all accounting records pertaining to the construction, development, or operation of the entire Development. Upon request by the City/County, the Borrower shall notify occupants of upcoming inspections of their Units in accordance with state law.
- b. In addition to the annual audit required by this Agreement, and at the City/County's request, the Borrower shall provide, at Borrower's expense, an audit of the Development certified by an independent certified public accountant. The City/County may also perform or cause to be performed audits of any phase of the Borrower's activities related to the Development.
- c. In accordance with 25 C.C.R. § 8314(g), if the Borrower is paying Supportive Services Costs as Operating Expenses, the City/County will require the Borrower to maintain records of group activities, individualized services, and referrals at an onsite location, and to make such records available for City/County inspection.
- d. The City/County may request any other information that it deems necessary to monitor compliance with the Program Requirements and the requirements set forth in this Agreement and the Loan Agreement. The Borrower shall promptly provide such information.
- e. Monitoring site-visit Inspections shall comply with 24 CFR Part 92, as amended, (new construction, rehabilitation, and ongoing), and including property standards.

17. Annual Operating Budget, Schedule of Rental Income, Annual Report, and Annual Audit.

- a. No later than 60 days prior to the beginning of each fiscal year of the Development, the Borrower must submit to the City/County a proposed annual operating budget and a Schedule of Rental Income (SRI) on forms provided by the City/County. The proposed annual operating budget will set forth the Borrower's estimate of the Development's income, operating expenses and debt service for the upcoming year, reserves, and a year-to-date operating statement. The Schedule of Rental Income will set forth the then-current Rent roll identifying each tenant household (either by unit number or other method of household identification, as determined by the City/County), their household size, income, current Rent, and proposed Rent adjustments, including utility allowances, if applicable. The Schedule of Rental Income will provide estimated income for Assisted Units, Non-Assisted Units and commercial space and activities. Annual operating budgets and Rent adjustments are subject to approval by the City/County. Borrower must operate the Development in accordance with the approved annual budget and SRI.
- b. Borrower must operate the Development in accordance with the First-Year Operating Budget and Schedule of Rental Income approved by and on file with the City/County. Such budget and Schedule of Rental Income, collectively, must show all anticipated income, debt service and expenses for management, operations, reserves, and maintenance for the first fiscal year or portion thereof following initial occupancy.
- c. Borrower must file an annual report with the City/County no later than ninety (90) days after the

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

end of each Fiscal Year for the Development. The report must be in such form and contain such information as required by the City/County.

(1) As part of the annual report, the Borrower must submit an audit of the Development prepared by an independent certified public accountant in accordance with Department audit requirements, as specified in the Department’s Audit Handbook, titled “Audited Financial Statements for Multifamily Rental Housing”, published October 18, 2023, as periodically updated.

(2) The report must specifically identify the number of Units rented to the elderly. The report must also specifically identify the number of Units rented to military veterans.

18. **Required Reserves.** Borrower must establish, fund, and maintain reserve accounts for the term of this Agreement as listed below. All such accounts must be in the name of the Borrower, earn interest, and, unless otherwise approved in writing by the City/County, be insured by an agency of the federal government or other comparable federal insurance program. All interest earned on a reserve account must become a part of the account. Withdrawals from the reserve accounts require prior written approval of the City/County. Should the City/County fail to act on a request for a withdrawal from a reserve account within thirty (30) days of documented receipt of the request, that request will be deemed approved.

a. **Replacement Reserve Account.** [Construction Loan: Commencing no later than the date funds are disbursed pursuant to the HOME Loan Documents] [Perm Loan: Commencing no later than the permanent loan conversion], Borrower must establish a segregated replacement reserve account. Borrower must make annual deposits from Operating Income to the replacement reserve account in the amount set forth in Exhibit C, unless the City/County determines, in its sole discretion, that more frequent deposits are required. Borrower must also deposit any Development funds designated for replacement reserves into this account, including those identified in Exhibit C. The amount of the minimum annual deposit may be adjusted, as determined by the City/County, in its sole discretion, based on the results of reserve studies, performed by an independent third party at the Borrower’s expense as requested by the City/County or as based on other reliable indicators of the need for reserve funds over time. In no event will this reserve be used to fund limited partner exit costs.

b. **Operating Reserve Account.** Borrower must establish an operating reserve account or sub-account within the Development’s general operating account no later than [Construction Loan: sixty (60) days from the date of recordation of this Agreement.] [Perm Loan: permanent loan conversion date.] Borrower must fund the operating reserve account with an initial deposit in an amount as specified in Exhibit C, and through monthly deposits from Operating Income in amounts as specified in Exhibit C or in approved annual operating budgets. Borrower must fully replace any withdrawals from the operating reserve account using available cash flow prior to use of any cash flow to pay deferred Developer Fee, partnership management or similar fees, Supportive Services Costs (when not paid as part of operating costs), or Distributions. In no event will the Operating Reserve be used to fund limited partner exit costs, except for amounts in excess of the balance required by the City/County.

c. **COSR, if applicable,** is a reserve held by the Borrower within an account, to cover shortfalls in Unit income available for payment of approved Operating Expenses by the Department attributable to COSR-HOME Assisted Units pursuant to the requirements of the COSRA, and the terms of the

HOME Loan Documents. Borrower acknowledges and agrees that it has no ownership interest in any COSR funds. The COSR is for the benefit of the eligible residents of the COSR-HOME Assisted Units, and Borrower has no right or claim to COSR proceeds.

d. Other Reserve Accounts. Borrower certifies that Exhibit C hereto contains a complete listing of all reserve accounts established or to be established for the Development. All withdrawals from these accounts require prior written **City/County** approval, except as specifically noted in Exhibit C.

19. Accounting Records. In a manner subject to **City/County** approval, Borrower must maintain an accrual or modified accrual basis general ledger accounting system that is posted monthly and that accurately and fully shows all assets, liabilities, income, and expenses of the Development. All records and books relating to this system must be retained for not less than seven (7) years and in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records are subject to inspection and audit by the **City/County** or its representative.

20. Use of Income from Operations.

a. The Borrower, or Borrower's management agent, must promptly deposit all Operating Income in a segregated account established in the Borrower's name exclusively for the Development and insured by an agency of the federal government or other comparable federal insurance program.

b. Withdrawals from the account must be made only in accordance with the provisions of this Agreement, and the approved annual operating budget, and must be disbursed, applied, or reserved and set aside for payment when due, in the following priority, to the extent available:

(1) Salaries, wages, and any other compensation due and payable to the employees or agents of the Borrower employed on site in connection with the maintenance, administration, or operation of the Development, along with all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required in connection with such employees;

(2) All charges incurred in the operation of the Development in connection with utilities, real estate taxes and assessments, and liability, fire, and other hazard insurance premiums;

(3) Regularly scheduled non-contingent payments of interest, principal, impounds, fees and charges, if any, required on loans, including the HOME Loan, which are secured by liens on the Property, which have been approved by the **City/County**, payments on which are to be made prior to the determination of Net Cash Flow, as specified in Exhibit C, hereto;

(4) All other incurred Operating Expenses, including the fee of the managing agent, **City/County**-approved Supportive Services Costs as may be specified in Exhibit C (unless restricted by non-**City/County** public agency lenders, in which case Supportive Services Costs shall be paid as noted in (8) below), and any extraordinary expenses, in accordance with the approved annual operating budget of the Development or as otherwise approved in advance by the **City/County**;

(5) Deposits to required reserve accounts;

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor's Identification Number: **xxx xxx xxxx**

Contract No.: **-HOME-**

- (6) Deferred Developer Fee;
- (7) Asset management, partnership management and similar fees, including fees paid to investors in an amount not to exceed per year the sum of:
 - a. \$30,000 for 2016 and increased at the rate of 3.5% for each subsequent year, plus
 - b. Unpaid asset management, partnership management and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year;
- (8) Supportive Services Costs that these regulations would allow to be paid as operating costs, but that other funding sources do not; and
- (9) Distributions, in accordance with this Agreement.
- c. The withdrawals permitted under subparagraphs (b) (6) through (9) of this paragraph are also subject to the restrictions of paragraph 18 of this Agreement.
- d. The Borrower may depart from the foregoing priorities of payment only upon the express written approval of the **City/County**. Net Cash Flow must be distributed in accordance with paragraph 22 of this Agreement.

21. Distributions.

- a. Borrower is limited to annual Distributions equal to fifty percent (50%) of the annual Operating Income remaining after payment of the items allowed in clauses (1) through (8) of subparagraph b. of paragraph 20 of this Agreement. If the Development generates insufficient cash flow to permit payment of Distributions in a particular year, Distributions in future years will not be accrued, or increased to cover the lack of Distributions in prior years.
- b. Borrower may deposit all or a portion of the amount permitted for Distributions into a Development account for distribution in subsequent years. Such future distributions must not reduce the otherwise permitted Distributions in those subsequent years.
- c. Distributions are permitted for a particular Fiscal Year, including Distributions from an accumulated Distributions account, only after the Borrower submits a complete annual report, including audit/CPA-certified financial statement and operating budget and the **City/County** determines that the report and budget demonstrate compliance with all Program Requirements.
- d. No Distributions, deferred Developer Fee, asset management fees, partnership management fee and similar fees must be made in the following circumstances:
 - (1) When written notice of default has been issued by any entity, including the **City/County**, with an equitable or beneficial interest in the Development;
 - (2) When the **City/County** determines that the Borrower or Borrower's management agent has failed to comply with the **City/County**'s written notice of any reasonable requirement for proper

maintenance or operation of the Development;

- (3) If all currently required debt service, including mandatory payments on the HOME Loan, and Operating Expenses have not been paid; or
- (4) If the replacement reserve account, operating reserve account or any other required reserve account is not fully funded pursuant to this Agreement. In situations described in this subparagraph 21(d)(4), the City/County reserves the authority to require any Project positive cash flow to be deposited into a specified reserve account under paragraph 18.

22. Use of Net Cash Flow.

Net Cash Flow must be applied to payment of interest, principal, impound fees and charges, if any, on loans which are secured by liens on the Property, including the HOME Loan, which have been approved by the City/County and which are to be paid from Net Cash Flow in the amounts, proportion and in accordance with the terms specified in Exhibit C hereto. Upon payment in full of the loans payable from Net Cash Flow as set forth in Exhibit C, all Net Cash Flow must be used to reduce Rents in Assisted Units or used for other purposes related to the Development as approved by the City/County.

23. Restrictions on Sale, Encumbrance, and Other Acts.

- a. Except with the City/County's prior written approval, Borrower must not:
 - (1) Make any sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, or transfer in any other form of the Property or Development or of any of its interest in either of them;
 - (2) Substantially add to, remodel, remove, reconstruct, or demolish any part of the Development;
 - (3) Permit the use of the Development for any purpose other than that permitted by this Agreement;
 - (4) Incur any liability or obligation in connection with the Property or Development, other than for current Operating Expenses, nor incur any liability, charge, assessment, or obligation whatsoever that is secured in whole or in part by any interest in or lien or encumbrance on the Property provided that the City/County may permit refinancing or additional financing secured by the Property to the extent necessary to maintain or improve the Development's Fiscal Integrity, or to maintain affordable Rents;
 - (5) Enter into any contract relating to rehabilitating or managing the Development;
 - (6) Enter into any lease for more than a single rental Unit, a ground lease of the Property or any interest therein, except for the rental of Commercial Space in the Development; or
 - (7) If the Borrower or its successor in interest is a limited partnership, discharge or replace any general partner or amend, modify, or add to its partnership agreement, or amend, modify, or add to the organizational documents of the general partner; except that it may transfer limited partner interests without such approval if such transfer does not involve a sale of the limited

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

partner interests. The withdrawal, removal, and/or replacement of a general partner of the partnership pursuant to the terms of the partnership agreement will not constitute a default under any of the HOME Loan Documents, and any such actions will not accelerate the maturity of the HOME Loan, provided that any required substitute general partner is reasonably acceptable to the City/County, is selected with reasonable promptness, and receives the City/County's prior written approval.

b. The City/County may approve a sale, transfer or conveyance of the Property or Development provided all of the following conditions are met (and may approve a refinance if conditions 1, 4 and 5 are met):

- (1) The transferor Borrower (or Borrower, as applicable) is in compliance with this Agreement, or the sale, transfer, conveyance or refinance will result in the cure of any existing violations of this Agreement.
- (2) The transferee Borrower agrees to assume all obligations of the transferor Borrower pursuant to the Program Requirements.
- (3) The transferee Borrower demonstrates to the City/County's satisfaction that it has the ability to own and operate the Development in full compliance with this Agreement and the Program Requirements.
- (4) Any terms of the sale, transfer, conveyance, or refinance must not jeopardize the City/County's security or the transferee Borrower's (or Borrower's, as applicable) ability to comply with all Program Requirements.
- (5) The City/County will not approve any cash payment to the selling party, or to any party related to or affiliated with the selling party. The Sponsor may not cash out its equity. Deferred developer fee, and seller carry back loans, cannot be cashed out from the proceeds of a sale, transfer, conveyance, or refinance.

c. The City/County may grant its approval for a sale, transfer, conveyance or refinance of the Property or Development subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Development or to ensure compliance with the Program Requirements. Such conditions may include, but are not limited to, the deposit of sales proceeds, or a portion thereof, to maintain required reserves or to offset negative cash flow.

d. If Borrower or its successor in interest is a limited partnership, the execution and delivery of the purchase option and right of first refusal agreement and or a put option described in the partnership agreement will not constitute a default under the HOME Loan Documents or accelerate the maturity of the HOME Loan thereunder, provided that such purchase option and right of first refusal agreement is and remains subordinate to the documents securing the HOME Loan. The consent of the City/County to, (a) the exercise of said put option or purchase option and right of first refusal agreement by the Sponsor identified therein, and to (b) the assumption without penalty of HOME Loan obligations by the Sponsor and the release of Borrower from such obligations, must not be unreasonably withheld but may be conditioned upon the execution of an operating guaranty from the Borrower in form provided by the City/County. Subject to any such consent requirement, the exercise of rights under such agreement will not constitute a default under the HOME Loan

Documents or accelerate maturity of the HOME Loan.

- e. If Borrower or its successor in interest is a limited partnership and the put option or purchase option and right of first refusal agreement described in the partnership agreement is not exercised and the Development is sold subject to low-income housing use restrictions contained in this Agreement, the requisite consent of the **City/County** to said sale, and to the assumption without penalty of HOME Loan obligations by the purchaser and the release of Borrower from such obligations, will not be unreasonably withheld, but may be conditioned upon, among other requirements, the execution of an operating guaranty from the Borrower in form provided by the **City/County**.
- f. The Borrower agrees that if it is organized as a partnership or other legal entity, Borrower will not dissolve the partnership or other legal entity prior to the expiration of the term of this Agreement, without the prior written approval of the **City/County**.

24. Use of Syndication Proceeds. Unless otherwise approved by the **City/County** in writing, Borrower must allocate, distribute, and pay all net syndication proceeds, if any. Borrower must notify the **City/County** of the receipt of any net syndication proceeds received during the term of this Agreement and the disposition of said proceeds. The **City/County** may approve, in writing, future syndications of the Development, if the **City/County** determines that such syndication is in the best interest of the Development and such syndication meets all federal requirements. All syndication proceeds not identified in this Agreement must be distributed only as approved in writing by the **City/County**.

25. Violation of Regulatory Agreement by Borrower.

- a. In the event of the Borrower's breach, violation, or default in the performance of any covenant, agreement or obligation of the Borrower set forth in this Agreement including, but not limited to, Borrower's covenant to perform its obligations under the HOME Loan Documents, the **City/County** must give the Borrower written notice in the manner specified in this Agreement, specifying the nature of the violation, breach or default and the action needed to cure. If the default, breach, or violation is not cured to the satisfaction of the **City/County** within the time period specified in the notice, which will not be less than the applicable time to cure as stated in this Agreement, the **City/County** may declare a default hereunder and may take any one or more of the following actions:

- (1) Collect all Rents and income in connection with the operation of the Development and use the same and the reserve funds for the operation and maintenance of the Development.
- (2) Take possession of the Development and bring any action necessary to enforce any rights of the Borrower growing out of the operation of the Development and operate the Development in accordance with the terms of this Agreement until such time as the **City/County**, in its sole discretion, may determine that the Borrower is again in a position to operate the Development in accordance with the terms of this Agreement.
- (3) Apply to any court, state or federal, for specific performance of this Agreement or for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement, or for such other relief as may be appropriate. It is agreed by the Borrower that the injury to the **City/County** arising from a default under any of the terms of this Agreement would be irreparable and that the amount of compensation, which would provide adequate relief to the Department, in light of the purposes and requirements of the Program, would be impossible to ascertain.

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor's Identification Number: **xxx xxx xxxx**

Contract No.: **-HOME-**

(4) Accelerate all amounts, including outstanding principal and interest, due under the terms of the HOME Loan Documents and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the Note provides that the City/County may proceed with a foreclosure or sale under the power of sale in accordance with the provisions of the Deed of Trust and state law regarding foreclosures.

(5) Seek such other appropriate remedies as may be available under the law.

- b. If a breach, violation, or default involves charging tenants Rent or other charges in excess of those permitted under this Agreement, the City/County may demand the return of such excess Rents or other charges to the affected households. If legal action is necessary to enforce the provisions of this Agreement, the City/County may seek the return of such overcharges to the affected households.
- c. The remedies of the City/County hereunder and under the other HOME Loan Documents are cumulative, and the exercise of one or more of such remedies will not be deemed an election of remedies and will not preclude the exercise by the City/County of any one or more of its other remedies.
- d. The tenants of the HOME Assisted Units are third party beneficiaries of this Agreement, all shall have such rights and remedies to enforce the HOME Program Requirements.

26. Time to Cure.

- a. If a monetary event of default occurs under the terms of any of the HOME Loan Documents, prior to exercising any remedies thereunder the City/County shall give Borrower written notice of such default. Borrower will have a period of fifteen (15) days after such notice is given within which to cure the default prior to exercise of remedies by the Department under the HOME Loan Documents, or such longer period of time as may be specified in the HOME Loan Documents.
- b. If a non-monetary event of default occurs under the terms of any of the HOME Loan Documents, prior to exercising any remedies thereunder, the City/County shall give Borrower written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, as determined by the City/County in its sole discretion, Borrower will have such period to effect a cure prior to exercise of remedies by the City/County under the HOME Loan Documents, or such longer period of time as may be specified in the HOME Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, as determined by the City/County in its sole discretion, or such longer period if so specified, and if Borrower (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is determined by the City/County, in its sole discretion, to be reasonably necessary to cure the default prior to exercise of any remedies by the City/County. If Borrower or its successor in interest is a limited partnership, if Borrower fails to take corrective action or to cure the default within such a specified time, the City/County shall give Borrower written notice thereof, whereupon the limited partner may remove and replace the general partner with a substitute general partner who will effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. In no event will the City/County be precluded from exercising remedies if its security becomes or is about to become materially

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given, or such longer period of time as may be specified in the HOME Loan Documents.

27. Property Tax Exemption. To the extent the property tax exemption provisions of section 214 of the Revenue and Taxation Code are applicable to the Borrower and the Development, Borrower must take all actions necessary to qualify the Development for the maximum exemption from property taxes available pursuant to said section 214 of the Revenue and Taxation Code. Such actions may include, but are not limited to the following:

- a. Modify, add to, or delete from the articles of incorporation, bylaws, or other organizational documents of Borrower or of the managing general partner of Borrower;
- b. Apply for nonprofit, tax-exempt status to the appropriate state or federal agency;
- c. Provide the certifications and assurances required by section 214 of the Revenue and Taxation Code; and
- d. Comply with the procedures and requirements imposed by local government agencies as a condition of receiving the property tax exemption.

28. Controlling Agreement.

a. Borrower specifically agrees and acknowledges that, notwithstanding any internal accounting procedures or provision pertaining to the use of receipts, payments, reserves, and distributions contained in its partnership or other organizational documents or agreements, the Program Requirements control as to the use of the funds provided under the Loan Agreement and all Operating Income from the Development.

b. In the event of any inconsistencies or conflicts between the terms of this Agreement and the terms of the other HOME Loan Documents, the terms of this Agreement control.

29. Assignment of City/County Rights. The City/County retains the right at its sole discretion to assign all or part of its rights under this Agreement for the purpose of ensuring compliance and enforcement of Borrower's duties and obligations hereunder. In addition, the City/County may designate an agent to act on its behalf in monitoring compliance and enforcing the provisions hereof.

30. Amendment. This Agreement must not be altered or amended except in writing, executed between or among all the parties.

31. Partial Invalidity. If any provision of this Agreement are invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.

32. Binding on Successors. This Agreement binds, and the benefits hereof inure to, the respective parties hereto, their legal representatives, executors, administrators, transfers, successors in interest and assigns, provided, however, that the Borrower may not assign this Agreement or any of its obligations

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

hereunder, voluntarily or by operation of law, without the prior written approval of the **City/County**. The term "Borrower" as used herein includes and applies to any person or entity succeeding to the legal, equitable, proprietary, or possessory interest of Borrower in the Development.

33. Recording Agreement. This Agreement, and all amendments hereto, must be executed by each of the parties. This Agreement, or, where approved by the **City/County** in writing, a memorandum thereof, must be recorded against the Property in the official records of the county in which the Development is situated, superior to the lien of the Deed of Trust.

34. Indemnification and Waiver.

- a. Borrower agrees to indemnify the **City/County** and/or Department and its agents, employees and officers against, and holds the **City/County** and/or Department and its agents, employees and officers harmless from, any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees) of every name, kind and description, which the **City/County** and/or Department may incur as a direct or indirect consequence of: (1) the making of the HOME Loan to the Borrower; (2) Borrower's failure to perform any obligations as and when required by this Agreement or any of the other HOME Loan Documents; (3) any failure at any time of any of Borrower's representations or warranties to be materially true and correct; (4) any act or omission by Borrower, any contractor, subcontractor, material supplier, engineer, architect or other person or entity with respect to the Property or the construction, management, maintenance or operation of the Development; or (5) the presence of any recognized environmental conditions at the Development or on the Property. Borrower must pay immediately upon the **City/County** and/or Department's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of ten percent (10%) per annum. Borrower's duty to indemnify and save harmless includes the duties to defend as set forth in section 2778 of the Civil Code. Borrower must indemnify and hold harmless the **City/County** and/or Department and its agents, officers and employees as set forth herein regardless of the existence or degree of fault or negligence whether active or passive, primary or secondary on the part of the **City/County** and/or Department, the Borrower or their respective agents, officers, employees, contractors or subcontractor; provided, however, that Borrower's duty to indemnify and hold harmless hereunder will not extend to liability arising from the gross negligence or willful misconduct of the **City/County** and/or Department. Borrower's duty to indemnify the **City/County** and/or Department will survive the term of this Agreement, the release and cancellation of the Note, and the reconveyance or partial reconveyance of the Deed of Trust. In the event the United States Department of Housing and Urban Development ("HUD") acquires title to the Development, this indemnification provision will not apply to HUD.
- b. The Borrower waives and releases all rights to any types of express or implied indemnity against the **City/County** and/or Department or its agents, officers, or employees.
- c. The Borrower expressly waives the protections of section 1542 of the Civil Code in relation to subparagraphs a. and b. of this paragraph. Said section 1542 provides as follows: **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

35. Waiver. No waiver by the **City/County** of any breach of or default under this Agreement will be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.
36. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or the intent of this Agreement.
37. Governing Law. This Agreement will be construed in accordance with and governed by the laws of the State of California. All code references herein refer to the California Codes, unless specifically indicated otherwise.
38. Notice. Except for any notice required under applicable law to be given in another manner, any notices, demands or communications between the parties hereto will be sufficiently given if, and will not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested or delivered by express delivery service with delivery receipt, to the address of the respective party as set forth below, or to such other address as the respective party may have designated by written notice given to the other party in the manner provided herein. Such written notices, demands and communications will be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date on which delivery was attempted.
39. Attorneys' Fees. The prevailing party in any action to enforce this Agreement, including the residents of Assisted Units, are entitled to reasonable attorneys' fees as determined by the trier of fact in that forum.
40. Compliance with IRC Section 42(h)(6)(E)(ii). In the event a regulatory agreement required by TCAC is recorded against the Property as a condition of the award of federal tax credits, the **City/County** agrees to comply with the provisions set forth in Internal Revenue Code ("IRC") Section 42(h)(6)(E)(ii). As of the date of this Agreement, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure.
41. Incorporation. The following Exhibits, all attached hereto, are hereby incorporated into this Agreement:
- Exhibit A: Legal Description;
 - Exhibit B: Unit Designations, Rent Schedule, and Supportive Services Requirements (if any); and
 - Exhibit C: Special Conditions
 - Exhibit D: Intentionally deleted
 - Exhibit E: Standard Agreement
 - Exhibit F: Senior Lender Subordination
42. Cross Default. Any breach or default under any of the other **[Name of City Loan and/or Grant Program]** program loans provided by the **City/County** to the Development, or the **City/County's** loan and/or grant documentation related thereto, shall constitute a default under this Agreement and the other Loan

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxx**
Contract No.: **-HOME-**

Documents; and a default under this Agreement or the other Loan Documents shall constitute a default under the City/County's [Name of City Loan and/or Grant Program] loan and/or grant documents.

[Signatures Commence On Following Page]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

BORROWER: [insert signature block provided by Sponsor]

Address for Notice:
[enter name and address of ultimate borrower]

Sponsor: [insert signature block provided by Sponsor]

Address for Notice:
[enter name and address of Sponsor]

[Signatures Continue On Following Page]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

SPONSOR:

[Signatures Continue On Following Page]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

CITY/COUNTY:
CITY/COUNTY OF XXXXXXXXXXXXXXXXXXXX
HOME Investment Partnerships Program (HOME)
P.O. Box XXXXXXX
Sacramento, CA 94252-2054

By: _____
[Name], Closing Manager

[All signatures must be acknowledged.]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT A TO JUNIOR REGULATORY AGREEMENT

LEGAL DESCRIPTION

[enter legal description from title report]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT C TO JUNIOR REGULATORY AGREEMENT

Special Conditions

In the event of any inconsistencies or conflicts between these Special Conditions and the terms of this Agreement, or any of the other HOME Loan Documents, the terms of these Special Conditions control.

Requirements for project-based Operating Assistance.

Project Based Operating Assistance (Proposed Rents)					
Operating Subsidy Program and Component	Subsidy term (years)	Total Amount of Annual Assistance (Maximum)	Total Amount of Annual Assistance (Proposed)	Total Amount awarded	Is this subsidy Renewable
HHC COSR (For 34 HHC Assisted Units only)	20	\$255,000	\$255,000	\$5,100,000	No
LIHTC Secondary COSR	30	\$1,375,338	\$243,944	\$13,350,000	No
	Total	\$1,630,338	\$498,944	\$18,450,000	

Requirements for project-based Rental Assistance.

The following Units Must be covered by project-based rent subsidies:

Project Based Rental Assistance						
Rent Source	Rent Subsidy Program and Component	Subsidy term (years)	UNITS COVERED BY SUBSIDY		Amount of Annual Assistance	Is this subsidy Renewable
			Number of units	Bedrooms		
(example: source of funding)	(ex: Section 8 PBV)	(example: 20)			\$0	(example: Yes)
					\$0	
					\$0	
		Total			\$0	

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxx
 Contract No.: -HOME-

Required Reserves.

Replacement Reserves.12

Annual Deposit Amount:3 \$ _____
 based on .006 times construction costs per 25 C.C.R. § 8309(b)(1): \$ _____
 based on \$500 times number of units
 based on a physical needs assessment
 based on a direct federal loan or grant program: _____
 based on CalHFA requirements
 Initial Capitalization Amount: \$ _____
 Withdrawals Require Prior Department Approval: Yes

Operating Reserve.

Deposit Amount:	\$ _____ per month
Initial Capitalization Amount:	\$ _____
Date of Deposit:	[close of escrow or ___ ?]
Withdrawals Require Prior City/County Approval?	Yes

COSR (paragraph 18.d). If applicable, approved HOME COSR. _

Amount:	\$ _____
Withdrawals Require Prior City/County Approval?	Yes - pursuant to the requirements under the HOME Loan Documents including the COSRA.

¹ The City/County defers to the reserve requirements of direct federal loan or grant programs, including Native American Housing Assistance and Self Determination Act programs, for the term of the loan or grant programs. However, upon termination of such programs, reserve requirements will revert to the City/County's requirements. [use footnote only if City/County defers to such federal loan or grant programs, delete otherwise]

² The annual deposit of \$ _____ will be held and controlled by CalHFA. The initial capitalized portion of \$ _____ will be placed by Borrower in a separate account pursuant to the City/County's regulations and requirements. When CalHFA no longer controls and actively manages the reserves, the CalHFA controlled balance will be combined with the capitalized reserve account and subject to the City/County's regulations and requirements. [alternate reserve footnote for projects jointly funded with CalHFA when HCD defers to CalHFA, delete otherwise]

³ The first annual deposit amount shall be prorated from the close of escrow to the end of the Fiscal Year.

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxxx
 Contract No.: -HOME-

Other Reserves. If applicable, approved transition reserve account established to prevent tenant displacement resulting from the termination of rent subsidies or operating subsidies (other than the COSR).

Name:	
Deposit Amount:	\$ _____ per _____
Initial Capitalization Amount:	
Withdrawals Require Prior City/County Approval?	

Name:	
Deposit Amount:	\$ _____ per _____
Initial Capitalization Amount:	
Withdrawals Require Prior City/County Approval?	

[ADD language for Unfunded Transition Reserves; otherwise delete.]

A transition reserve is not required because the Local Operating Subsidy Program grant agreement, dated _____, (“LOSP Grant Agreement”) does not provide for renewable subsidy after expiration of its fifteen-year term, which concludes on _____ (“the LOSP Grant Agreement Termination Date”). For this scenario, the City/County has underwritten to ensure project feasibility after the non-renewable LOSP subsidy terminates. The City/County has determined project feasibility for the 55 year period pursuant to Health and Safety Code Sections 50675(c), 50675.7(b)(3) and 50675.8(a)(7) by ensuring that after the \$_____ LOSP subsidy terminates, the project will remain feasible for the remaining duration of the HOME Loan term based on the following:

1. In order to provide sufficient transition time to prepare for the LOSP subsidy termination, Borrower will cease leasing to new LOSP-subsidized tenants effective _____, (or earlier if the Borrower receives notice that the subsidy will be terminated earlier), unless an amendment to such LOSP Grant Agreement is approved, by the City and County of San Francisco Board of Supervisors or to the appropriate devolved budget approval authority, prior to _____, to modify the LOSP Grant Agreement Termination Date in order to extend the LOSP subsidy grant term (“LOSP Amendment”). The terms and conditions of the LOSP Amendment must be acceptable to the City/County and will be subject to the one-year Subsidy Termination Notice requirements of this special condition the City/County’s acceptance will not be unreasonably conditioned, delayed, or denied. Notice to tenants must be given one year prior to the termination of the LOSP Grant Agreement unless such LOSP Amendment is approved prior to _____.

2. Borrower must provide written confirmation to the City/County of the status of the LOSP Grant Agreement as of _____, as follows:

- a. If the LOSP Amendment has been approved prior to _____, Borrower must provide written notice to the City/County by the earlier of (i) within thirty (30) days of approval of the LOSP Amendment; or (ii) no later than _____; or
- b. If the LOSP Amendment is not approved prior to _____, then the Borrower must provide the City/County with notice of the same no later than _____.

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor’s Identification Number: xxx xxx xxxx
 Contract No.: -HOME-

3. Unless the LOSP Amendment is approved prior to _____, units that become vacant, or are leased, on or after _____, must be leased to new tenants at rent and income levels necessary to maintain Fiscal Integrity, as required by the Regulations and determined by the City/County. In no event will rents be increased above the 50% of AMI rent/income limits.

4. Borrower must provide written notice to all LOSP subsidized tenants one-year prior to the LOSP Grant Agreement Termination Date, notifying the tenants that the LOSP subsidy is ending, and that rents will be increasing at the end of the LOSP Grant Agreement term ("Subsidy Termination Notice"). Borrower will ensure that all LOSP tenants acknowledge receipt of the Subsidy Termination Notice, and will provide tenants with reasonable assistance in locating alternate affordable housing (e.g. housing counseling, lists of subsidized housing, tenant meetings to disseminate information). Notwithstanding the foregoing, Borrower will not be required to provide the Subsidy Termination Notice if the LOSP Amendment is approved prior to _____.

5. Borrower will actively pursue a new LOSP subsidy contract, or other subsidy contract, to begin immediately after the current LOSP Grant Agreement Termination Date;

6. If Borrower is unable to have a new LOSP subsidy contract in place when the initial LOSP Grant Agreement terminates and is unable to acquire alternative funds to cover the operating deficit, then the Borrower will increase the rents, pursuant to section 10(d)(2) herein, for those previously identified LOSP units (at 20% AMI) ("LOSP Units") to the level necessary to ensure Fiscal Integrity, as approved by the Department; and

7. The Borrower must submit a transition plan to the City/County which details how the Borrower will meet the requirements itemized above ("Transition Plan"), no later than 90 days, or earlier than 180 days, from the date of issuance of the Subsidy Termination Notice to tenants. The Transition Plan is subject to City/County review and approval.

[Remainder of this page is intentionally left blank.]

Mandatory Loan Payments or Monitoring Fees to be made Prior to Determination of Net Cash Flow.

Lender:	City/County of XXXXXXXXXXXX (HOME Investment Partnerships Program)
Initial Principal Amount:	\$ [Enter amount]
Payment Amount (including future adjustments, caps, and balloons):	\$
Term to Maturity:	
Lien Position:	
Interest Rate:	

Lender:	City/County of XXXXXXXXXXXX – [Program Name] Loan
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps, and balloons):	\$ (20 rate) per year for 55 years with a 3% annual increase as a monitoring fee. This annual payment will continue for the entire term of this Agreement, regardless of any prepayment or payoff of the HOME Loan or restructuring or re-syndication of the project and must be paid to the City/County every year commencing on the last day of the Initial Operating Year.
Term to Maturity:	55 years from date of Recordation
Lien Position:	2 nd
Interest Rate:	3%

Lender:	City/County of XXXXXXXXXXXX – [Program] Loan
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps, and balloons):	\$ (20 rate) per year for 55 years with a 3% annual increase as a monitoring fee. This annual payment will continue for the entire term of this Agreement, regardless of any prepayment or payoff of the HOME Loan or restructuring or re-syndication of the project and must be paid to the City/County every year commencing on the last day of the Initial Operating Year.
Term to Maturity:	[date, or 55 years from date of Recordation]
Lien Position:	[Enter lien position]
Interest Rate:	%

Lender:	
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps, and balloons):	
Term to Maturity:	
Lien Position:	4 th
Interest Rate:	3%

City/County Loan Agreement
 Preparation Date: MM/DD/2024
 Development: XXXXX
 Assessor's Identification Number: xxx xxx xxxx
 Contract No.: -HOME-

Deferred Developer Fee. The **City/County** approved deferred Developer Fee from paragraph 20.b(6) (also known as Priority Deferred Developer Fee) is \$ **_____**. The **City/County** approved Deferred Developer Fee payable from Distributions (see paragraph 20.b(9)) is \$ **_____**.

The Developer Fee will be adjusted for 9% tax credit projects (new construction) and 4% tax credit projects to reflect any change approved by the **City/County** at placed-in-service date. Excess Developer Fee determined at placed-in-service date must be refunded to the **City/County** in an amount pro rata with the other funding sources within 6 months of the placed-in-service date. Increases at placed-in-service date to the Developer Fee will result in an upward adjustment to the deferred Developer Fee payable in accordance with 25 C.C.R. § 8314 (a)(1)(A) and decreases will result in a downward adjustment to the deferred Developer Fee payable in accordance with 8314 (a)(1)(A). If a reduction in Developer Fee results in a credit to the **City/County** owing to over-payment of Developer Fee from Operating Cash Flow, the deficit must be paid to the **City/County** from Distributions paid to Sponsor in accordance with this Agreement.

Supportive Services Costs (see paragraphs 20.b.4. and/or 20b.8). The **City/County** approved Supportive Services cost from paragraph **20.b.4 and/or 20.b.8** is \$ **_____** which shall increase at the rate of 3.5% of each subsequent year. This amount is based on the number of Units for which supportive services are provided, times the maximum eligible amount per unit per 25 C.C.R. § 8314(e). In the event that such services are provided to more or fewer units during a given fiscal year, said amount may be revised at the **City/County's** sole discretion at the time of review and approval of the annual report and audit.

If another funding source does not allow Supportive Services Costs as an approved Operating Expense, then the **City/County** shall allow **City/County-** approved Supportive Services Costs to be paid after asset management, partnership management and similar fees, but before Distributions. Such approved costs shall be calculated annually by the **City/County** up to the maximum amount noted in the paragraph immediately above. In the event the full amount of Supportive Housing Costs are not captured by step (8) of paragraph 20.b of this Agreement, such costs will not accrue to the following fiscal year.

Use of Net Cash Flow. Net Cash Flow must be applied towards payment of the following loans, in the percentages noted:

Lender:	City/County of XXXXXXXXXXXXXXXXX
Initial Principal Amount:	\$
Percentage of Net Cash Flow:	%
Term to Maturity:	55 years
Lien Position:	
Interest Rate:	3% simple [or "X percent AFR" if appropriate]
Percentage of Net Cash Flow:	%
Term to Maturity:	Years
Lien Position:	
Interest Rate:	% simple [or "X percent AFR" if appropriate]

Limited Partner Cure Rights. Notwithstanding anything to the contrary herein, the **City/County** hereby agrees

City/County Loan Agreement
 Preparation Date: **MM/DD/2024**
 Development: **XXXXX**
 Assessor's Identification Number: **xxx xxx xxx**
 Contract No.: **-HOME-**

that any cure of any default offered by the limited partners of the Borrower may be accepted or rejected on the same basis as if cure was offered by the Borrower. Copies of all notices of default sent hereunder may be sent to the limited partners of the Borrower at the following address:

(name of equity partner/Financial Institution

Street or Mailing address

City, State Zip Code
Attn:

The City/County's failure to provide a duplicate copy will not be a breach by the City/County, nor will it impair the City/County's foreclosure or other remedies in any way.

ADD language for HCID/LAHD projects; Otherwise Delete.

Los Angeles Housing Department ("LAHD"). Borrower acknowledges that LAHD's annual monitoring fee for the project will not exceed \$ ___ per restricted unit. The calculation of Residual Receipts by any lender, including but not limited to LAHD, will prioritize City/County's required Monitoring Fee noted in the table above, or debt service of .42% for both the SHMHP loan and the AHSC loan prior to the determination of residual receipts as detailed above.

[Insert additional project specific Special Conditions.]

ADD language for Unfunded Transition Reserves; Otherwise Delete.

Use of Income From Operations. Throughout the term of the LOSP Grant Agreement, the asset management fee, partnership management fee and similar fees combined (the "Asset Management Fee"), will be the greater of \$30,900 for the first Operating Year or the amount set forth in 8314 (a)(B), and may increase by 3.5% annually, paid from Net Cash after the payment of all Operating Expenses, debt service and all Reserve Account deposits have been made per this Agreement. In the event that the Grant Agreement is terminated, the City/County will adjust the amount of the Asset Management Fee to the amount specified in UMR 8314 (a)(B). No Asset Management Fee will be paid in any year in which there is a withdrawal from the Operating Reserve unless such Reserve has been fully replenished.

Enumeration of Remedies. The failure to describe or enumerate all City/County remedies for any defaults does not limit the City/County's use of any remedies at its disposal.

Compliance with City/County Requirements. The Borrower acknowledges that all partners of the Borrower, including the limited partners, have been provided copies of the HOME Loan Documents and that the Borrower is authorized pursuant to the First Amended and Restated Agreement of Limited Partnership of [insert name of LP here (the "LPA")] to execute, and comply with the obligations imposed by, the HOME Loan Documents. The Borrower acknowledges and agrees that it is obligated to comply with the terms and conditions of the HOME Loan Documents.

Failure of the General Partner to obtain consent as specified within the LPA to perform any act required by the HOME Loan Documents does not excuse or relieve the Borrower from its obligations under the HOME Loan Documents. Nothing in the LPA or this paragraph limits the City/County's remedies including declaring a default under any of the HOME Loan Documents.

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxx
Contract No.: -HOME-

Definitions. Definitions of terms in any non-City/County Project or loan document, any amendment, modification, or restatement of any such document, are not binding on the City/County including, but not limited to, definitions of “Cash Flow”, “Net Cash Flow”, “Surplus Cash”, “Surplus Cash Flow”, “Surplus Cash Distribution”, “Excess Cash”, “Project Expenses”, “Operating Revenue”, “Residual Receipt” and “Annual Operating Expenses.”

Uses of Cash Flow. Neither the LPA’s designation, nor any other designation, of the use of cash flow, in any non-City/County Project or loan document, or any amendment, modification or restatement of any such document, is any way binding on the City/County. Borrower must comply with 25 C.C.R. § 8314 and all other provisions of the UMR’s and this Agreement concerning project income and expenses notwithstanding any contrary requirement by any other party, including any partnership agreements regarding accrual of any asset management or like fees.

Limited Partner Exit. No Development funds, including replacement reserves, nor any operating reserves except in accordance with 25 C.C.R. § 8308(g), may be used to fund the purchase of or to acquire a limited partner share, or any other fees or expenses related to a transaction to purchase or acquire a limited partner share or limited partner exit.

Continuity of Reserves. All reserves must remain with the Development for uses approved by the City/County during the term of the Regulatory Agreement notwithstanding the sale or transfer of the Development, the exercise of an option to purchase or right of first refusal under the LPA, or the dissolution of the Borrower organization. Reserves may not be used to pay any transfer taxes, ground lease payments, repayment of debts to the limited partner, or limited partner buyout costs, except that operating reserves may be used in accordance with 25 C.C.R. § 8308(g).

Precedence of HOME Loan Documents Governing Use of Operating Income: In addition to the other terms of this Agreement, the Borrower hereby agrees and acknowledges that, notwithstanding any internal accounting procedures or provision pertaining to the use of receipts, payments, reserves and distributions contained in its agreement of partnership or other organizational document, the terms of this Agreement control the use of the funds provided by the HOME Loan and all Operating Income from the Development.

The [Other City/County Loan and/or Grant program] Loan and/or grant and the HOME Loan Documents are cross-defaulted to one another so that a default under either loan and/or grant, and applicable documents, constitutes a default of the other loan and/or grant and its applicable documents. The loan and/or grant documentation for the [Other City/County Loan and/or Grant program] Loan and/or grant and the HOME Loan Documents will both reflect the cross-defaulted nature of the loans and/or grants. [delete if no other City/County funding]

EXHIBIT D TO JUNIOR REGULATORY AGREEMENT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor’s Identification Number: xxx xxx xxxx
Contract No.: -HOME-

[Intentionally deleted]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT E TO JUNIOR REGULATORY AGREEMENT

Standard Agreement
[See Attached]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT F TO JUNIOR REGULATORY AGREEMENT

Senior Lender Subordination
[See Attached]

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

EXHIBIT I TO LOAN AGREEMENT

Deed of Trust

DRAFT

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

Exhibit I – Deed of Trust

**FREE RECORDING IN ACCORDANCE
WITH CALIFORNIA GOVERNMENT
CODE SECTION 27383 and 27388.1.**

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

City/County of XXXXXXXXX
P.O. Box XXXXXXXX
Sacramento, CA 94252-2052
Attn: **Attorney XXXX**

HOME Investment Partnerships Program (HOME)
___-HOME-___

CITY/COUNTY OF XXXXXXXXX
HOME Investment Partnerships Program (HOME)

DEED OF TRUST,
WITH POWER OF SALE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT
AND
FIXTURE FILING
(Multi-Family Construction & Permanent Financing)

LOAN NUMBER: [Loan Number]

This Deed of Trust is dated for reference purposes only as of [DATE], and is made by [Borrower legal name and organization type] (the "Borrower"), whose address is listed herein, to [Name of title company] as trustee (the "Trustee"), whose address is [Title company's full address including street and P. O. Box], for the benefit of the City/County of XXXXXXXXXXXXX, a public agency of the State of California (the "Lender"), whose mailing address is: HOME Investment Partnerships Program, Attention: Program Manager, P.O. Box XXXXX, Sacramento, CA 94242-2054, and whose principal place of business is XXX ABC Street, Suite XXXX, Sacramento, CA 95811.

- A. Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys, transfers and assigns to Trustee, in trust, with power of sale and right of entry and possession, all of Borrower's rights, title and interest now held or hereafter acquired in and to the following: (1) All of that certain real property located at [Physical address of project] [County where project is located], and more fully described in Exhibit A, attached hereto and made a part hereof (the "Property"); (2) All buildings, improvements and fixtures now or hereafter erected thereon, and all appurtenances, easements, and articles of property now or hereafter affixed to, placed upon or used in connection with the Property and owned by Borrower or in which Borrower has an interest; (3) All rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures, including, but not limited to,

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: ___-HOME-___

all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, steam and hot water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating equipment, cabinets, mantels, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, furniture, shades, awnings, screens, Venetian blinds and other furnishings, now or hereafter attached to the Property; and (4) all accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents notes, drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds arising from or related to the Property; together with all replacements, proceeds, additions and accessions to the foregoing, are a part of the property covered by this Deed of Trust; and all of the foregoing, together with said Property are herein referred to as the "Property and Improvements." The listing of specific rights or property is not a limit of the general terms of this Deed of Trust.

B. The interests herein conveyed are for the purpose of securing to Lender (1) the repayment of the indebtedness evidenced by Borrower's note dated on or about [DATE], in the principal sum of [Write out the loan amount] (\$[Loan amount in numbers]) (the "Note"), or such lesser amount as is equal the aggregate amount disbursed to Borrower by Lender, together with interest thereon according to the terms of the Note, and any and all amendments, modifications, extensions or renewals of the Note; (2) the performance of the covenants and agreements of Borrower herein contained, and contained in the Note, the Standard Agreement between the Borrower, [Name of Developer/Sponsor and type of organization] (the "Sponsor") and the Lender dated [Date from above], (the "Standard Agreement"), the Senior Regulatory Agreement by and among the Borrower, Sponsor, and the Lender dated on or about [DATE] (the "Senior Regulatory Agreement"); (3) the Junior Regulatory Agreement by and among the Borrower, Sponsor, and the Lender dated on or about [DATE] (the "Junior Regulatory Agreement"; and together with the Senior Regulatory Agreement, collectively, the "Regulatory Agreements"), and (4) any other obligation of Borrower to Lender now or hereafter created, whether acquired by assignment from third parties or otherwise, where such obligation specifically recites that it is secured by this Deed of Trust.

1. The Note is evidence of the loan made by Lender to Borrower (the "HOME Loan") pursuant to the HOME Investment Partnerships Program ("HOME Program") for the [Describe activity] of a [Total number of units in project]-unit rental project located at [Physical address of project], [County where project is located](the "Project").

2. The HOME Loan is further subject to the provisions of the Standard Agreement, Senior Regulatory Agreement, and the Junior Regulatory Agreement (collectively, the "Loan Documents"). The Loan Documents, among other things, govern, regulate, and restrict development and construction of the Project.

C. Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and Improvements, and that Borrower will warrant and defend generally the title of the Property and Improvements against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Borrower must promptly pay when due the principal and interest on the indebtedness evidenced by the Note. All payments received by Lender under the Note must be applied by Lender first to interest payable on the Note, and second to principal due on the Note, except for the last payment which is due at the end of the term and must be in the amount of the outstanding principal balance of the Note and any interest accrued but not yet paid.
2. Charges; Liens. Borrower must pay all taxes, assessments and other charges, fines, and impositions attributable to the Property and leasehold payments or ground rents, if any, by Borrower making payment, when due, directly to the payee thereof. Borrower must promptly furnish to Lender all notices of amounts due under this Paragraph 2, and in the event, Borrower must make payment directly, Borrower must promptly furnish to Lender receipts evidencing such payments. Borrower must pay when due all encumbrances, charges, and liens, with interest in accordance with the term thereof, on the Property or any portion which are inferior or superior to this Deed of Trust. Borrower has the right to contest, in good faith, any claim or lien provided that Borrower does so in a diligent manner, without prejudice to the Lender. Borrower must provide a bond or surety satisfactory to Lender in an amount adequate, as determined by Lender, to cover any amounts disputed by the Borrower.
3. Hazard Insurance.
 - a. Borrower must keep the improvements now existing or hereafter erected or placed on the Property, insured against loss of fire or flood, as required, or hazards under a policy approved by Lender and which provides "special form" coverage in an amount at least equal to the replacement value of the structure. In addition, Borrower must insure against loss all furniture, equipment, and other personal property owned by Borrower related to the operation of the Property as a residential facility. The foregoing requirements apply to all structures now or hereafter placed on the Property.
 - b. The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender, provided that such approval may not be unreasonably withheld. All premiums on insurance policies must be paid by Borrower making payment, when due, directly to the insurance carrier, or in a manner agreed to by the Lender.
 - c. All insurance policies and renewals thereof must be with loss payable to the Lender. Lender has the right to hold the policies and renewals thereof, and Borrower must promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower must give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.
 - d. Unless Lender and Borrower otherwise agree in writing, insurance proceeds must be applied to restoration or repair of the property damaged, provided such restoration or

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

repair is economically feasible and the security of this Deed of Trust is not hereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, subject to the rights of senior lienholders, if any, the insurance proceeds must be applied to the sums secured by this Deed of Trust with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

- e. Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal must not extend or postpone the due date of the payment or payments specified in the Note or change the amount of such payments. If under Paragraph 19 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition must pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.
 - f. In the event the Borrower fails to maintain insurance coverage, Lender may purchase insurance in such amounts and in such coverages as it may elect, and all amounts paid therefore, become part of the principal of the loan and are secured by this Deed of Trust. Purchase of insurance by the Lender is not a waiver of any right to appropriate remedies under this Deed of Trust.
4. Liability Insurance. Borrower must keep general liability insurance for the Property and Improvements in the amount and type as required by Lender. The insurance carrier shall be chosen by the Borrower subject to approval by the Lender; provided, that such approval may not be unreasonably withheld. All premiums must be paid by Borrower. Lender will be named as an additional loss payee.
5. Preservation and Maintenance of Property. Borrower agrees: (a) to keep the Property and Improvements in decent, safe, sanitary and tenantable condition and repair and permit no waste thereon or thereto; (b) not to commit or suffer to be done or exist on or about the Property or Improvements any condition causing the Property to become less valuable; (c) not to construct any buildings or improvements on the Property other than the buildings and improvements contemplated by the Loan Documents or add to, remove, demolish or structurally alter any buildings and improvements now or hereinafter located on the Property other than as contemplated by the Loan Documents; (d) to repair, restore, or rebuild promptly any buildings or improvements on the Property which may become damaged or be destroyed while subject to the lien of this Deed of Trust; (e) to comply with all applicable laws, ordinances and governmental regulations affecting the Property or Improvements, or requiring any alteration or improvement thereof, and not to suffer or permit any violations of any such law, ordinance or governmental regulation, nor any covenant, condition or restriction affecting the Property; (f) not to initiate or acquiesce in

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

any change in any zoning or other land use or legal classification which affects any of the Property or Improvements without the Lender's prior written consent; and (g) not to alter the use of all or any part of the Property without prior written consent of Lender.

6. Protection of Lender's Security.

- a. Borrower must appear and defend any action or proceeding purporting to affect the security hereof or the rights of the Lender. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property or Improvements, including, but not limited to, foreclosure, involuntary sale, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or descent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.
- b. Any amounts disbursed by Lender pursuant to this Paragraph 6, with interest thereon, become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts are payable upon notice from Lender to Borrower requesting payment thereof and will bear interest from the date of disbursement up to the legal rate of interest as determined by the Lender in its sole discretion. Nothing contained in this Paragraph 6 requires Lender to incur any expense or take any action hereunder.

7. Inspection. Lender may make or cause to be made reasonable entries upon any inspections of the Property, if Lender gives Borrower and occupant reasonable notice prior to any such inspection.

8. Condemnation.

- a. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and must be paid to Lender subject to the rights of senior lienholders. In the event of a total taking of the Property, the proceeds must be applied to the sums secured by this Deed of Trust, subject to any claims of prior lienholders, with the excess, if any, paid to Borrower. In the event of the partial taking of the Property, unless Borrower and Lender otherwise agree in writing, and subject to any claims of prior lienholders, there must be applied to the sums secured by this Deed of Trust such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

- b. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

the condemn or offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

- c. Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal must not extend or postpone the due date of payment or payments specified in the Note or change the amount of such payments.

9. Awards and Damages. All judgments, awards of damages, settlements, claims paid and compensation made in connection with or in lieu of (a) taking of all or any part of or any interest in the Property or Improvements by or under assertion of the power of eminent domain, (b) any damage to or destruction of the Property or Improvements or any part thereof by insured casualty, and (c) any other taking, injury or damage to all or any part of the Property or Improvements, are hereby assigned to and must be paid to the Lender. The Lender is authorized and empowered (but not required) to collect and receive any such sums and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Lender determines at its option. The Lender is entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Lender may be released to Borrower upon such conditions as the Lender may impose for its disposition. Application of all or any part of the amounts collected and received by the Lender, or the release thereof must not cure or waive any default under this Deed of Trust. Any and all rights granted to Lender by this Paragraph 9 are specifically subject to the rights of the holders of senior liens and encumbrances approved by Lender.

10. Uniform Commercial Code Security Agreement, Financing Statement and Fixture Filing.

- a. This Deed of Trust is a security agreement and financing statement under the Uniform Commercial Code for the benefit of Lender as secured party for any of the items specified above as part of the Property or Improvements which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. This Deed of Trust is filed as a fixture filing and covers goods which are or are to become fixtures. The address of the principal place of business of Lender (secured party) from which information concerning the security interest may be obtained and the mailing address of Borrower (debtor) are set forth in this Deed of Trust. The types or items of collateral are described in Paragraph A of this Deed of Trust. Borrower agrees that the Lender may file any appropriate document in the appropriate index as a financing statement for any of the items specified above as part of the Property or Improvements. In addition, Borrower agrees to execute and deliver to the Lender, upon the Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as the Lender may require to perfect a security interest with respect to said items. Borrower also agrees to

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

execute and deliver to Lender, upon Lender's request, any and all documents in such form as the Lender may require to perfect a security interest in any structure placed on the property. Borrower must pay all costs of filing such financing statements or recording Lender's legal interest in any structure, and any extensions, renewals, amendments, and releases thereof, and must pay all reasonable costs and expenses of any record or title searches for financing statements, liens, and releases thereof, as the Lender may reasonably require. Without the prior written consent of Lender, Borrower must not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto, except as otherwise expressly permitted by Lender. Upon an acceleration as provided in Paragraph 19 hereof, the Lender has the remedies of a secured party under the Uniform Commercial Code and, at the Lender's option, may also invoke the other remedies provided in this Deed of Trust, in the Note and in Loan Documents as to such items. In exercising any of said remedies, the Lender may proceed against the items of real property and any items of personal property specified above as part of the Property and Improvements separately or together and in any order whatsoever, without in any way affecting the availability of the Lender's rights or remedies under the Uniform Commercial Code or of the other remedies provided in this Deed of Trust, in the Note, in the Loan Documents, or by law.

- b. Borrower agrees that the filing of any financing statement in the records normally having to do with personal property must not derogate from or impair this Deed of Trust and the intention of the parties hereto that those portions of the Property and Improvements herein declared part of the real estate are, and at all times and for all purposes and in all proceedings both legal or equitable must be, regarded as part of the real estate irrespective of whether any such item is physically attached to the Property or any such item is referred to or reflected in any such financing statement so filed at any time.
- c. Similarly, the mention in any such financing statement of (1) compensation for damage to or destruction of the Property or Improvements by insured casualty, or (2) any judgment, award, or other compensation for a taking of the Property and/or Improvements by eminent domain, or (3) the rents, royalties, issues, accounts and profits of the Property and Improvements under leases, must never be construed as in any way altering any of the Lender's rights as determined by this Deed of Trust or impugning the priority of the Lender's lien granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of the Lender in the event that any court or judge must at any time hold with respect to (1), (2), or (3) of this Paragraph that notice of the Lender's priority of interest to be effective against a particular class of person, including without limitation the federal government or any subdivision or entity thereof, must be filed as provided for in the Uniform Commercial Code.

11. Borrower Not Released. Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to Borrower or any successor in interest of Borrower must not operate to release, in any manner, the liability of the original Borrower and Borrower's

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

successors in interest. Lender is required to commence proceedings against such successor or refuse to extend time for payment by reason of any demand made by the original Borrower or Borrower's successors in interest.

12. Forbearance by Lender not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, is not a waiver of, or precludes the exercise of, any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender is not a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.
13. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently, or successively.
14. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained bind, and the rights hereunder inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 18 hereof. All covenants and agreements of Borrower are joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.
15. Notice. Except for any notice required under applicable law to be given in another manner, any notices, demands and communications between the Lender and the Borrower must be sufficiently given if, and are not given unless, it is dispatched by certified mail, postage prepaid, return receipt requested or delivered by express delivery service with the delivery receipt, to the address of the Lender shown below. Such written notices, demands, and communications must be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date upon which delivery was attempted. For the purposes of this section the address of the Lender is:

City/County of XXXXXXXXX
Attn: HOME Investment Partnerships Program (HOME)
P.O. Box XXXXXXX
Sacramento, CA 94252-2054

For the purposes of this section the address of the Borrower is:

[Name of Borrower][Type of organization][Street address of Borrower][City, State and Zip Code]

Either the Borrower or Lender may designate another address for service of notices, demands or other communications by notice to the other party in the manner provided herein. A copy of any notice delivered to Borrower hereunder may be delivered to Borrower's limited partner at the address provided in the Regulatory Agreements; provided, however, any

City/County Loan Agreement
Preparation Date: MM/DD/2024
Development: XXXXX
Assessor's Identification Number: xxx xxx xxxx
Contract No.: -HOME-

failure by the Lender to provide a copy of such notice to Borrower's limited partner shall not invalidate the notice to Borrower.

16. Governing Law; Severability. This Deed of Trust is governed by the laws of the State of California. If any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, except as set forth in the Note and to this end the provisions of the Deed of Trust and the Note are declared to be severable.

17. Borrower's Copy. Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.

18. Transfer of the Property; Assumption.

a. Except as otherwise expressly permitted herein, if all or any part of the Property or Improvements, or an interest therein, is sold or transferred by Borrower without Lender's prior written consent, excluding exceptions set forth in the Note or Regulatory Agreements, if any, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender waives such option to accelerate if, prior to the sale or transfer, Lender, and the person to whom the Property or Improvement is to be sold or transferred reach agreement in writing that the loan may be assumed. If Lender has waived the option to accelerate provided in this Paragraph 18 and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender may release Borrower from all obligations under this Deed of Trust and the Note.

b. If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with Paragraph 15 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by Paragraph 19 hereof.

19. Acceleration; Remedies.

a. Except as provided in Paragraph 18 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, the Note (including the covenants to pay when due any sums secured by this Deed of Trust), any of the other Loan Documents, or the terms of the Lender's \$[Loan amount in numbers] loan being made to Borrower under the Lender's HOME program, Lender shall mail notice to Borrower as provided in Paragraph 15 hereof specifying: (a) the breach; (b) the action required to cure such breach; (c) a date, no less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (d) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property and Improvements.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

However, in the event of a nonmonetary breach which cannot reasonably be cured within the time period set forth in such notice, the loan may not be accelerated hereunder if within said designated time period Borrower has given written notice to Lender of Borrower's intention to cure said breach, has commenced to cure such breach and has diligently prosecuted and effected such cure which shall be completed no later than 60 days from the date notice of such breach is given. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect from the Borrower, or sale proceeds, if any, all reasonable costs, and expenses incurred in pursuing the remedies provided in this Paragraph, including, but not limited to, reasonable attorneys' fees.

- b. If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property and Improvements to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property and Improvements at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property and Improvements at any sale.
- c. Trustee shall deliver to the purchaser Trustee's deed conveying the Property and Improvements so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed are prima facie evidence of the truth of the statements made therein. Trustee must apply the proceeds of the sale in the following order: (1) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (2) to all sums secured by this Deed of Trust; and (3) the excess, if any, to the person or persons legally entitled thereto as determined by Trustee.

20. Assignment of Rents; Appointment of Receiver; Lender in Possession.

- a. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property and Improvements, provided that Borrower shall, prior to acceleration under Paragraph 19 hereof or abandonment of the Property, have the right to collect such rents as they become due and use them in accordance with the provisions of the Loan

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

Documents.

- b. Upon acceleration under Paragraph 19 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver, is entitled to enter upon, take possession of and manage the Property and Improvements and to collect the rents of the Property and Improvements including those past due. All rents collected by Lender, or the Receiver will be applied first to payment of the costs of management of the Property and Improvements and collection of rents including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Deed of Trust. Lender and the receiver are liable to account only for those rents received. The provisions of this Paragraph 20 and Paragraph 19 operate subject to the claims of prior lienholders.
21. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender will request Trustee to reconvey the Property and Improvements and will surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee must reconvey the Property and Improvements without warranty and without charge to the person or persons legally entitled thereto. Such person or persons must pay all costs of recordation, if any. The recitals in the reconveyance of any matters or facts are conclusive proof of the truthfulness thereof.
22. Substitute Trustee. Lender, at Lender's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property and Improvements, the successor trustee must succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.
23. Request for Notice. Borrower requests that copies of the notice of default and notice of sale be sent to Borrower's address, as set forth in Paragraph 15 hereof.
24. Statement of Obligation. Lender may collect a fee not to exceed \$15 for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.
25. Use of Property. Borrower must not permit or suffer the use of any of the Property or Improvements for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.
26. Regulatory Agreements Controls. In the event of any inconsistencies between the terms set forth in the Regulatory Agreements and the terms of this Deed of Trust, the terms of the Regulatory Agreements control.

[REMAINDER OF PAGE IS BLANK]

In Witness Whereof, Borrower has executed this Deed of Trust on the date first set forth above.

BORROWER:

[Insert appropriate signature page for transaction]

BORROWER'S ADDRESS:

All signatures must be acknowledged.

DRAFT

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

EXHIBIT A TO DEED OF TRUST

LEGAL DESCRIPTION

All that certain real property situated in the [County where project is located], State of California, more particularly described as follows:

[insert legal description that matches title report]

DRAFT

EXHIBIT J TO LOAN AGREEMENT

PROMISSORY NOTE

DRAFT

Exhibit J – Promissory Note

CITY OF X

BORROWER NAME

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

SECURED PROMISSORY NOTE

LOAN NUMBER **XX-HOME-XXXXX**

\$0

DATE

FOR VALUE RECEIVED, BORROWER, a(n) **ENTITY TYPE** (“Borrower”), promises to pay to the **City of X**, a municipal corporation of the State of California (“City”), or order, the principal sum of up to **DOLLAR AMOUNT Dollars and No Cents (\$0.00)**.

1. Borrower’s Obligation. This Secured Promissory Note (the “Note”) evidences Borrower’s obligation to pay City the principal amount of up to **DOLLAR AMOUNT Dollars and No Cents (\$0.00)** for the funds loaned to Borrower by City to finance the construction, leasing, and development of the Property pursuant to the City Loan Agreement between Borrower and City of even date herewith (the “City Loan Agreement”). All capitalized terms not otherwise defined in this Note shall have the meaning set forth in the City Loan Agreement.
2. Interest. The outstanding principal balance of this Note shall bear simple interest at the rate of three percent (3%) per annum from the date of disbursement until paid; provided, however, if an Event of Default (defined below) occurs, interest on the principal balance shall begin to accrue, as of the date of the Event of Default (following the expiration of any applicable notice and cure periods), and continuing until such time as the Loan funds are repaid in full or the Event of Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.
3. Terms and Repayment Requirements. The term of this Note (the “Term”), shall commence with the Project Completion as specified at 24 CFR Part 92.2 and shall expire on the date that is fifty-five (55) years after the issuance of the Notice of Completion but in no event more than fifty-eight (58) years after the date of the City Loan Agreement. This Note shall be due and payable as set forth in the City Loan Agreement.
4. No Assignment or Assumption. This Note shall not be assignable or assumable by the successors and assigns of Borrower without the prior written consent of City, or as set forth in the City Loan Agreement.

City/County Loan Agreement

Preparation Date: **MM/DD/2024**

Development: **XXXXXX**

Assessor’s Identification Number: **xxx xxx xxxxx**

Contract No.: **-HOME-**

5. Security. This Note is secured by a Deed of Trust (the “Deed of Trust”) of even date herewith, wherein Borrower is the Trustor and City is the Beneficiary, covering the Property described therein.

6. Terms of Payment.

a. All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

b. All payments on this Note shall be paid to City at the office of City: **City of X**
ADDRESS
CITY, STATE ZIP

or to such other place as City may from time to time designate in writing.

c. All payments on this Note shall be without expense to City, and Borrower agrees to pay all costs and expenses, including reconveyance fees and reasonable attorneys’ fees of City, incurred in connection with the payment of this Note and the release of any security hereof.

d. Notwithstanding any other provision of this Note, or any instrument securing the obligations of Borrower under this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that City may legally charge under the laws of the State of California, then the amount by which payments exceeds the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall Borrower be obligated under the terms of the Note to pay any interest which would exceed the lawful rate.

e. Notwithstanding anything to the contrary herein or in the Deed of Trust, the Senior Regulatory Agreement, Junior Regulatory Agreement, or the City Loan Agreement, this Note shall be nonrecourse to Borrower and/or its partners.

7. Events of Default.

a. Any of the following shall constitute an Event of Default under this Note:

1) Any failure to pay, in full, any payment required under this Note when due following written notice by City to Borrower and Borrower’s limited partner(s), if applicable, of such failure and ten (10) days opportunity to cure;

- 2) Any failure in the performance by Borrower of any terms, condition, provision or covenant set forth in this Note subject to the notice and cure period set forth in the City Loan Agreement;
 - 3) The occurrence of any Event of Default under the City Loan Agreement, the Deed of Trust, the Senior Regulatory Agreement, the Junior Regulatory Agreement, or other instrument securing the obligations of Borrower under this Note or under any other promissory note hereafter issued by Borrower to City pursuant to the City Loan Agreement or the Deed of Trust, subject to notice and cure periods if any, set therein; and
 - 4) The occurrence of any default in the Senior Loan Documents defined and described in the Subordination Agreement dated **DATE**.
- b. Upon occurrence of an Event of Default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust shall at the option of City become immediately due and payable upon written notice by City to Borrower without further demand.
 - c. The failure to exercise the remedy set forth in Subsection 7 b. above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by City of any payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option without the express consent of City, except as and to the extent otherwise provided by law.

Notwithstanding anything to the contrary herein, any cure of any default or Event of Default made or tendered by the limited partner of Borrower, if applicable, shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent to Borrower under the terms of this Agreement shall also be sent to Borrower's limited partner(s) as follows:

BORROWER's NAME
ADDRESS
CITY, STATE ZIP
Attn: X

City/County Loan Agreement
Preparation Date: **MM/DD/2024**
Development: **XXXXXX**
Assessor's Identification Number: **xxx xxx xxxxx**
Contract No.: **-HOME-**

With a copy to:

COUNSEL'S NAME

ADDRESS

CITY, STATE ZIP

Attn: X

8. Waivers.

- a. Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, and notice of dishonor of the Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that City may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.
- b. No extension of time for payment of this Note or any installment hereof made by agreement by City with any person now or hereafter liable for payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.
- c. The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

- a. All notices to City or Borrower shall be given in the manner and at the addresses set forth in the City Loan Agreement, or to such addresses as City and Borrower may hereinafter designate.
- b. Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, incurred by City in the enforcement of the provisions of the Note, regardless of whether suit is filed to seek enforcement.
- c. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.
- d. This Note shall be governed by and construed in accordance with the laws of the State of California.

City/County Loan Agreement

Preparation Date: MM/DD/2024

Development: XXXXX

Assessor's Identification Number: xxx xxx xxxx

Contract No.: -HOME-

- e. The times for the performance of any obligation hereunder shall be strictly construed, time being of the essence.
- f. This Note, together with the City Loan Agreement, the Senior Regulatory Agreement, the Junior Regulatory Agreement, the Deed of Trust and all exhibits thereto, contains the entire agreement between the parties as to the Loan. It may not be modified except upon written consent of the parties thereto.
- g. This Note shall be binding upon Borrower and its permitted successors and assigns.
- h. If any provision of this Note shall be found invalid by a court or other body of competent jurisdiction, said invalidity shall not affect the validity of the remaining provisions which shall remain in effect to the maximum extent possible.
- i. Borrower hereby certifies to City that this is the Note described in and secured by the Deed of Trust covering the property therein described.
- j. This Note is subject to Section 2966 of the Civil Code of the State of California which provides that the holder of this Note shall give written notice to the Borrower or its successors in interest, of prescribed information at least ninety (90) days and not more than one hundred and fifty (150) days before any balloon payment is due.

[Signature Page Follows]

IN WITNESS WHEREOF, Borrower has executed this Note as of the date first above written.

[Below signature block is a guidance language for reference only, please use the signature block that is appropriate to the respective Borrower type]

BORROWER:

BORROWER NAME,
A(N) ENTITY TYPE

By: [Redacted] AGP NAME,
a(n) ENTITY TYPE
Its: Administrative General Partner

By: Its:MANAGER NAME,
a(n) ENTITY TYPE

By:

By: [Redacted] MGP,
a(n) ENTITY TYPE
Its: Managing General Partner

By: SOLE MEMBER AND MANAGER NAME.,
a(n) ENTITY TYPE

Sole member and manager

By:
